

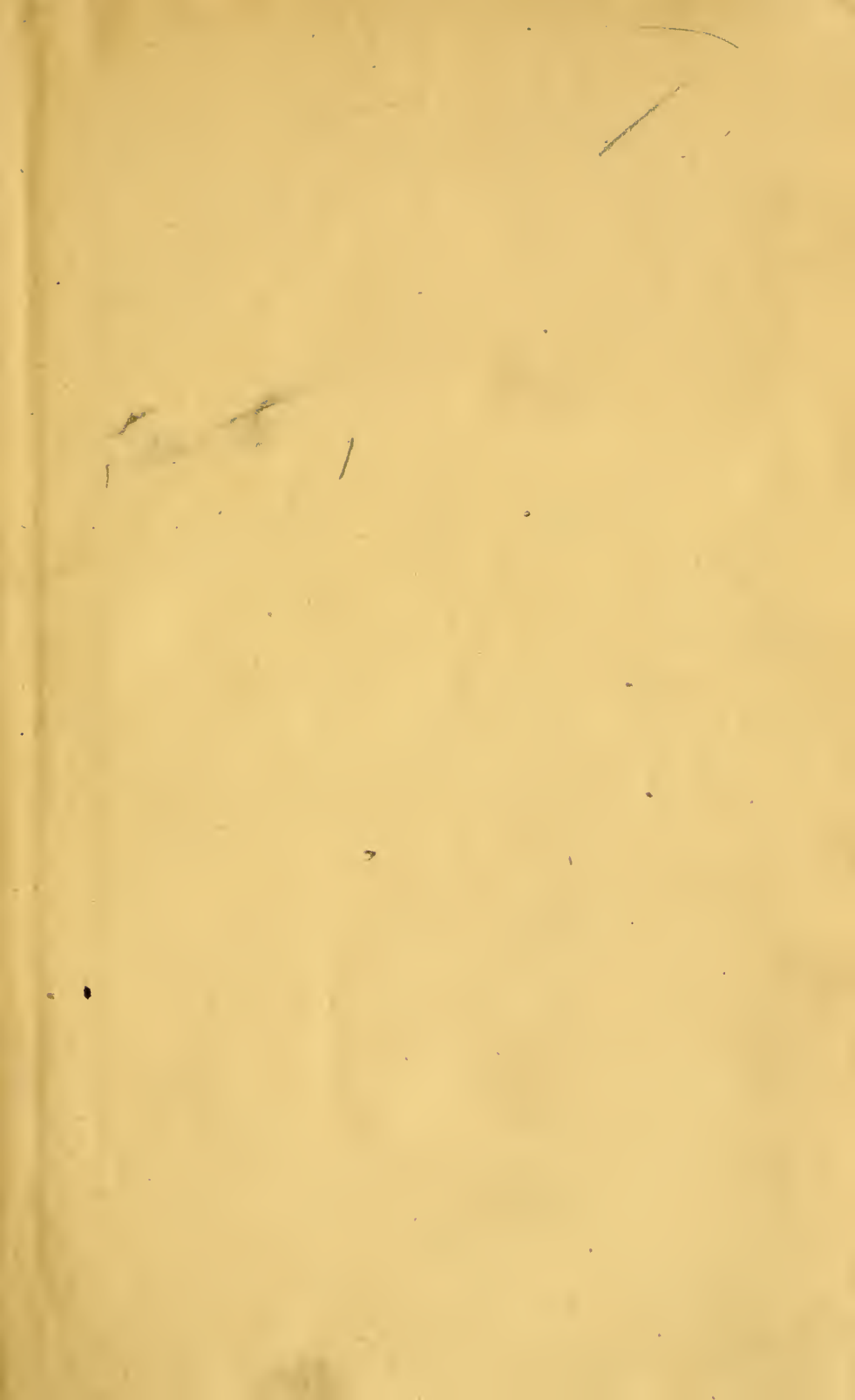
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U. S. DEPARTMENT OF LABOR
CHILDREN'S BUREAU

JULIA C. LATHROP, Chief

ILLEGITIMACY LAWS OF THE
UNITED STATES

AND CERTAIN FOREIGN COUNTRIES

By

ERNST FREUND

PROFESSOR OF JURISPRUDENCE AND PUBLIC LAW
UNIVERSITY OF CHICAGO LAW SCHOOL

LEGAL SERIES No. 2

Bureau Publication No. 42



WASHINGTON
GOVERNMENT PRINTING OFFICE
1919

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LETTER OF TRANSMITTAL.

U. S. DEPARTMENT OF LABOR,
CHILDREN'S BUREAU,

Washington, May 22, 1919.

SIR: Herewith I transmit the second report issued by the Children's Bureau on the subject of illegitimacy. The first was a translation and brief analysis of the Norwegian laws affecting children born out of wedlock.

This second report contains the exact text of the illegitimacy legislation of the United States, France, Germany, and Switzerland, together with an analysis of the legislation of the United States prepared for the bureau by Ernst Freund, professor of jurisprudence and public law at the University of Chicago Law School. A tabular analysis and a reference index of the illegitimacy laws of the United States are also included in the report.

The material of this report is issued in two forms—one containing Mr. Freund's comment on illegitimacy legislation, the tabular analysis, and the reference index, and the other containing, in addition, the text of the laws.

That the child born out of wedlock should not be punished, but protected, is the guiding principle in modern work for the care of such children as are thrown upon the community for support. In the legislation which formulates the relation of the natural child to his parents and to the community, this principle is also beginning to appear. The need for improved legislation is evident, but legislative changes might well follow careful study of the various angles from which improvement has been attempted in this country and abroad.

Mr. Freund was assisted in the preparation of the tabular analysis by Mr. Roy Massena and Mr. Clay Judson. The reference index was prepared by Mr. Carl A. Heisterman of the Children's Bureau. Miss Anna Kalet of the Children's Bureau assisted Prof. Freund in the compilation and translation of the text of foreign laws.

Respectfully submitted:

JULIA C. LATHROP, *Chief.*

Hon. W. B. WILSON,
Secretary of Labor.

ILLEGITIMACY LAWS OF THE UNITED STATES AND FOREIGN COUNTRIES.

COMMENT ON THE ILLEGITIMACY LAWS OF THE UNITED STATES.

Statutes relating to illegitimacy must be read in connection with the common law upon that subject. The common law as well as the interpretation of the statutes is found in the judicial decisions. The English decisions will be found collected in Halsbury's Laws of England, Vol. II, title, Bastardy; the American decisions in the Corpus Juris of the American Law Book Co., Vol. III, title, Bastards (written by Edward C. Ellsbree).

The common law of England, which is also the American common law, is more unfavorable to the illegitimate child than the civil law of Rome, on which the continental legal systems are based, mainly in two respects: It does not recognize a legal relationship even between the mother and the child and it does not allow legitimation by subsequent marriage. The bastard is described as "filius nullius," and this designation characterizes his status from the point of view of the law of property. The natural relationship is, however, recognized for the purpose of applying the law prohibiting marriage within the degrees defined by law (*R. v. Brighton*, 1 B. & S. 447, 1861), and the natural claims of the mother are given effect in determining the right to the custody of the child (*Queen v. Nash* 10 Q. B. 454, 1883), the intimation thrown out by an English judge in an earlier case (*re Lloyd*, 3 M. & G. 547, 1841) that the mother is not different from any stranger, being repudiated in the later decision.

English legislation has done nothing to alter the civil status of the child, but has confined itself to what may be described as measures of police. The legislation of Queen Elizabeth (1576), in addition to certain correctional provisions (see Blackstone, Bk. IV, p. 65), introduced the system of compelling support by the father, which has remained the main feature of the English bastardy law, and which has been taken over by the American States. The duty of the mother to maintain the child was established by the poor law amendment act of 1834 (4 and 5 William IV, ch. 76, sec. 51). The law relating to support by the father (bastardy or affiliation proceedings) was amended by a number of statutes, the last of which was enacted in 1918. The workmen's compensation act of 1906 gives the benefit of its provisions to illegitimate dependents and parents or grandparents dependent upon illegitimates. An act of 1858 (21 and 22

Vict., ch. 93) permits proceedings for a decree declaring the petitioner to be the legitimate child of his parents, but without in any way touching the substantive law or the law of evidence concerning legitimacy, so that the act has no bearing upon the law of illegitimacy.

American legislation has been more active. The English type of bastardy-support legislation has been taken over by nearly all the States and continues to be the dominant feature of our laws concerning illegitimates. In contrast to England, however, there has been also considerable legislation concerning the status and the civil rights of illegitimates. In part this legislation undertakes merely to enact rules of the common law, the acts laying down the presumptions regarding illegitimate birth being of that character. In part the legislation alters the common law by establishing rules more favorable to legitimates. As early as 1785 Virginia introduced the three reforms most conspicuous in this respect: Making the issue of certain annulled marriages legitimate; adopting the civil-law principle of legitimation by subsequent matrimony; and creating rights of intestate succession between the illegitimate child and the mother. It is remarkable that the neighboring State of North Carolina should not have adopted the second of these principles until 1917, New Jersey not until 1915, New York not until 1895; but the three reforms have become law in most of the States, with various modifications. Until recently there has been little legislation bearing on the status of the illegitimate child with reference to the father or greatly altering the father's obligations; the last few years have, however, witnessed some important changes in this respect, and radically new departures were undertaken in two States in 1917. The stagnation of legislative thought on this important subject which characterized most of the States during the greater part of the nineteenth century appears to have come to an end, but the lines that are likely to be taken by new legislation are not clearly marked out.

The following brief analysis of American illegitimacy legislation attempts merely to outline its main features.

The subject will be considered under the following heads: Illegitimacy in relation to marriage and birth; The illegitimate child and the mother; The illegitimate child and the father. Bastardy-support legislation naturally connects with the third of these categories.

1. ILLEGITIMACY IN RELATION TO MARRIAGE AND BIRTH.

The child born out of wedlock, and the presumption of legitimacy.

The problem of illegitimacy is mainly concerned with children born of unmarried mothers. However, the law recognizes the possibility that the child of a married woman is not the child of her hus-

band and therefore illegitimate. There is by the common law a strong presumption that a child born of a married woman is the child of her husband and therefore lawful. The presumption is not indisputable, and contrary proof is admitted now somewhat more readily than it was under the earlier law, when it was contended that nothing short of the husband's absence beyond the seas during the period of conception or his apparent incapacity for procreation would suffice to overcome the presumption (Coke on Littleton, 244a). At present it is sufficient to prove that the husband did not have intercourse with his wife during the relevant period, while it is not sufficient to prove that other men had intercourse with her at the time. On general principles of the law of evidence, however, neither husband nor wife may testify as to the fact of intercourse or non-intercourse, but the proof must be furnished by other means.

The matter of presumption is dealt with by statute in a number of States. Louisiana appears to have the fullest provisions in that respect. Georgia (Code, sec. 3012) expresses the rule of the common law by providing:

All children born in wedlock, or within the usual period of gestation thereafter, are legitimate. The legitimacy of a child thus born may be disputed. Where possibility of access exists, except in cases of divorce from bed and board,¹ the strong presumption is in favor of legitimacy, and the proof should be clear to establish the contrary.

Oregon and North Dakota provide that the presumption that the issue of a wife cohabiting with her husband who is not impotent is legitimate is conclusive and indisputable (North Dakota, sec. 7935; Oregon, sec. 798), this provision being intended to be part of a codification of the common law. "Cohabiting with her husband" should, perhaps, be construed to refer to actual access and intercourse; if so construed, it expresses the common law.

California and the States following it (North and South Dakota, Montana, Oklahoma) express the ordinary presumption in favor of the legitimacy of a child born in wedlock, but add that the presumption shall be disputable only by the husband, the wife, or a descendant of either. The latter restriction would make it impossible for a collateral heir to prove illegitimacy in order to establish his own right to succession.

A number of States have special provisions regarding the relation of a decree of divorce to the legitimacy of children, which, in so far as divorce means the dissolution of a valid marriage, are believed to express merely the common law; these provisions will be noted hereafter. The same is probably true of the provision of the Code of Georgia (sec. 3012), also found in Alabama (sec. 3807), that if pregnancy existed at the time of the marriage, and a divorce is sought and

¹ A child conceived after judicial separation from bed and board is not covered by the presumption of legitimacy. (Halsbury, Vol. II, sec. 720.)

obtained on that ground, the child, though born in wedlock, is not legitimate.

Child born before the marriage of the parents.

It is the fact of birth, and not of conception, out of wedlock that renders issue illegitimate. A child born after marriage is legitimate though it is evident that it was conceived before, subject to the proof of illegitimacy, as in other cases.

A child born before marriage, according to the common law of England, is not legitimized by the marriage of the parents. In 1235 the Parliament of Merton repudiated the civil and canon law doctrine of "*legitimatio per subsequens matrimonium*," declaring "*nolumus leges Angliæ mutari*."

Legitimation by subsequent matrimony has been introduced by statute in many American States. A number of the statutes express the requirement, which in any event must be implied, that the child, in order to be legitimized, must be acknowledged or recognized as his own by the person marrying the mother, or that the mother shall marry the reputed father (North Carolina). The provision that the child is legitimated by the father adopting him into his family (Oklahoma) will regularly be satisfied by the father marrying the mother. In a few States (Colorado, Maine, Kansas) marriage of the parents with acknowledgment of the child, or acknowledgment alone (South Dakota), gives the latter a right of inheritance without in terms legitimating him. Rhode Island, Delaware, South Carolina, and Tennessee seem as yet to lack such provision for legitimation. The desirability of such legislation is obvious. Legitimation is preferable to giving merely a right of inheritance, since it takes care of the duty of support. The right of inheritance, in case of legitimation by subsequent marriage, is peculiarly qualified in Nebraska, where it is given only if the parents have other children; until 1914, in New Jersey, it was given only if the parents had no legitimate children.

Issue of void and voidable marriages.

The difference between void and voidable marriages—a matter involved in much difficulty, owing to the operation of statutes upon canon-law and common-law doctrines—is of importance with reference to the status of the offspring. The issue of a void marriage is illegitimate. Bigamous marriages and marriages vitiated by lack of mental capacity are instances in point. If a voidable marriage was annulled by judicial decree, it was regarded as void *ab initio* and the issue was likewise illegitimate. However, the common law would not allow a voidable marriage to be annulled after the death of one of the parties (1 Blackstone, 434; Salkeld, 548), and death would thus make it impossible to question the status of issue which to all intents and purposes became legitimate.

Voidable marriages were not only those concluded under fraud or duress but also those within the prohibited degrees of consanguinity or affinity. An act of 1835 (5 and 6 W. IV, ch. 54), however, rendered all marriages between persons within the prohibited degrees of consanguinity or affinity "absolutely null and void to all intents and purposes whatsoever," with the effect of bastardizing the issue.

In America marriages within the prohibited degrees are generally declared by statute to be void and not merely voidable. In the absence of saving legislation the issue of these marriages must therefore be held illegitimate, as well as the issue of voidable marriages annulled by judicial decree.

LEGISLATION LEGITIMATING THE ISSUE OF VOID OR ANNULLED MARRIAGES.

Legislation legitimating the issue of void or annulled marriages is common in America, and is of more or less extensive scope, as follows:

1. In a large number of States the issue of all void marriages is declared legitimate: Alaska, Arizona, California, Minnesota, Missouri, Montana, Nevada, New Mexico, North Dakota, Ohio, Oklahoma, Texas, Utah, Virginia, West Virginia, Wisconsin.

2. The saving is restricted in the case of bigamy to innocent marriages (Indiana).

3. An exception is made from the saving to the prejudice of incestuous marriages and those between persons of different color in Kentucky.

4. The issue of bigamous marriages is specially saved—

(a) If the marriage was innocent or in good faith either on the part of both or on the part of one: Maine, Massachusetts, District of Columbia, Hawaii, Indiana, Kentucky, Wisconsin, Nebraska, Michigan, New York.

(b) Made legitimate only as to the one capable of contracting marriage: Nebraska, Michigan, New York.

5. Where one of the parties is a lunatic, the issue is legitimate as to the other (competent) party: Maine, Massachusetts, Vermont, New York, Kentucky, Michigan, Nebraska, Wyoming, Hawaii. In several of these States the saving extends to invalidity on account of nonage; in Michigan to annulment for fraud.

6. The issue of incestuous marriages is made legitimate generally in Oklahoma; with a restriction to the period prior to annulment in Alabama; with a restriction to cases of affinity in Pennsylvania.

7. The issue of validated marriages is declared legitimate in Texas, and, with particular reference to cohabitation between former slaves, in many States.

8. In North Carolina issue is not bastardized if the marriage has not been annulled during the lifetime of one of the parties, except where the marriage was between persons of different race or color.

Congress by act of March 22, 1882 (22 Stat. L.) legitimized the issue of Mormon (polygamous) marriages born before January 1, 1883.

Oklahoma favors legitimacy by permitting marriage below the normally required age where the object of the marriage is to settle a bastardy action.

LEGISLATION DECLARING THE ISSUE OF CERTAIN MARRIAGES ILLEGITIMATE.

There is, on the other hand, legislation expressly declaring the issue of certain illegal marriages illegitimate:

a. In case of incestuous marriages or marriages within the prohibited degrees in Massachusetts, Maine, New Hampshire, Vermont, Michigan, Hawaii, and Rhode Island.

b. In case of marriages between persons of different race in Florida, Kentucky, and Nebraska.

c. In case of bigamous marriages in Florida, and, if the same have been annulled, in New Jersey and Kentucky.

d. The law of Illinois has a saving of the issue of divorced marriages except in case of bigamy; the provision for divorce does not apply to incestuous marriages, for which likewise there is no saving provision.

THE LAW OF LOUISIANA.

The law of Louisiana is altogether peculiar. A distinction is made between the illegitimate offspring of persons who at the time of conception might have legally contracted marriage with each other and the offspring of persons to whose marriage there existed at the time some legal impediment (art. 181). The latter are designated as adulterous or incestuous bastards. Adulterous or incestuous bastards are not legitimated by subsequent marriage (which is possible where the connection was not incestuous), nor can they attain through acknowledgment the status of "natural children" (202-204), nor can they be adopted (214). Even the right of alimony apparently exists only against the mother and her descendants (art. 245; but see arts. 242 and 920). It follows from these provisions that the issue of marriages void either by reason of bigamy or of relationship, so far from having a preferred status, are stigmatized beyond redemption. This is the reverse of the policy adopted by most other States.

COMMENT ON THIS LEGISLATION.

If the marriage contract is vitiated by an initial defect, the illegitimacy of the issue follows as a logical result, whether the marriage be void or voidable, and it requires some positive rule of law to avoid this result. The rule forbidding the ecclesiastical courts to entertain a suit for nullity after the death of one of the parties to the apparent marriage legitimized the issue of many marriages that fell under the ban of the canon law, but there was no similar saving principle for marriages annulled by the operation of common law or statute, and the reduction of the province of the canon law operated to increase the number of cases of illegitimacy.

There is no need for explaining the policy of saving legislation on behalf of the issue of void marriages; we should ask rather: What is the purpose of withholding legitimation in specified cases of nullity or of express bastardization of the issue in similar or in other cases?

The idea of incestuous or of bigamous marriages is abhorrent to common instincts, and a widespread and deep-seated prejudice exists against miscegenation between races of different color; it is therefore perhaps not surprising that there should be a tendency to carry the invalidity of such unions to every logical consequence. Where, moreover, a formal celebration of a marriage is made mandatory and an informal or so-called common-law marriage is made illegal and null, it will be asked, What is the sanction of such a rule, if the issue of the union is not made illegitimate?

On the other hand, however, it is necessary to consider the legal and practical effect of illegitimacy in such cases. The most conspicuous effect is the loss of the right to inherit. The parent can overcome this by giving through a will what the law denies (a special exception will be noticed later on), but from the point of view of the child it is a pure penalty. There are indeed cases where the withholding of a right to inherit seems justifiable, as e. g., if a wealthy woman should be inveigled into a marriage without her consent (insanity, duress, etc.), it may be contended that offspring in such a case has no claim to share in her or in her family's wealth. But cases of this kind should be carefully considered and specified; and a mere vindictive tendency on the part of the legislator is apt to go wrong. Thus we find some statutes providing that in case of a bigamous marriage the issue shall be legitimate with reference to the party who was competent to marry or the party who was in good faith; yet it is this very party who (or whose relations) may desire to repudiate claims to inheritance on the part of the offspring, while the guilty bigamist is morally bound to take care of the issue. The legislature apparently views this problem purely from the point of view of the lawful wife of the bigamist and her children and safeguards her and their interests at the expense of innocent children. The problem is certainly one deserving careful attention.

Another question concerns the right of children of void or voidable marriages to a name. Ordinarily the illegitimate child bears the name of the mother. Can any good reason be given why, if the union is to be stigmatized, the child should bear the name of the mother, perhaps innocent, rather than that of the father, perhaps guilty?

There remain to be considered custody and support. If the issue of the void marriage is illegitimate, these belong to the mother. There may be no difficulty as to the custody; but the duty of support may be unjustifiable if laid upon the mother alone. The policy of legislation has been for centuries to place part of the burden upon the father; yet upon examination the bastardy laws will be found to be ill suited, or not applicable at all, to the issue of an annulled marriage. Under these circumstances to declare issue illegitimate is to

relieve the father of an obligation. The need for legislation may not be urgent in view of the scarcity of cases of this kind, and of the great probability that children will be cared for; yet there ought to be a provision making it the duty of the father to support the child. Some statutes relating to annulment of marriages give appropriate powers to courts in making decrees of nullity (Connecticut, 5293); but it will be observed that incestuous and bigamous marriages are void without a decree.

A strong case exists for extending to all the States the provision legitimating the issue of void and voidable marriages, or at least of making provision for support and for considering the question of inheritance.

Divorce and illegitimacy.

A considerable number of States have provisions in their divorce statutes relative to the legitimacy of the issue of the divorced marriage, to the effect either that the decree shall not affect the legitimacy of the issue or that the question of legitimacy may be determined by the court or as at common law. If divorce is clearly distinguished from an action of nullity, there can be no ground for holding that divorce in itself bastardizes the issue born before the dissolution of the marriage. A provision may be proper to prevent the ipso facto bastardization of issue conceived before, but born after, the divorce. At common law, however, the presumption of legitimacy may be overcome by positive proof that the husband is not the father of the child; and it serves a valuable purpose to permit, in an action for divorce on the ground of the wife's adultery, the question of the legitimacy of issue to be raised and determined, since without such provision the question, in order to be decided, has to arise incidentally to some litigated question,¹ and the wife's adultery is capable of being established without involving the legitimacy of any child.

There is only one case in which legitimacy is necessarily involved in an action for divorce; and that is where divorce is obtained on the ground of antenuptial pregnancy, since the divorce will not be granted if the husband could have been himself the father of the child. Alabama, Georgia, and Kentucky make express provision for this. The action in such a case is rather for annulment than for divorce. The ground of annulment in such a case is fraud, and the cause of action presupposes that the man is ignorant of the pregnancy. Where a person marries a woman knowing her to be pregnant, he thereby conclusively admits paternity; and any other person is thereby relieved. (62 Iowa 343; 43 Ohio St. 473.)

¹ Indiana seems to be the only State to permit a special proceeding to establish legitimacy or illegitimacy, which, however, is confined to the case of a prior undissolved marriage unknown to one of the parties.

Miscellaneous provisions regarding illegitimate children and relationship.

Notwithstanding the occasional reference in statutes to the legal disabilities of bastardy, the bastard, both at common law and under modern legislation, has the same legal capacity as any other person; the disabilities attaching formerly under other legal systems to illegitimate birth with reference to the right to be admitted to certain callings, guilds, etc., have disappeared.

Modern legislation recognizes, however, the social stain that attaches to illegitimate birth by occasional provisions seeking to shield the child from this stigma.

Thus, while the standard form of birth registration adopted by the United States Bureau of the Census requires the certificate to state whether the child is legitimate or illegitimate, a few States provide that in such a case no identifying data be given, and registration officers are forbidden to disclose facts from which the fact of legitimacy or illegitimacy may be discovered, except on order of a court. (See the provisions of the laws of Massachusetts, the District of Columbia, and Minnesota.) In Massachusetts and New York the record of an adoption proceeding must not disclose whether the child is legitimate or illegitimate. More commonly the law seeks to shield the parents, and particularly the name of the father is not required to be given if the child is illegitimate. The provision of the law of Hawaii requiring the mother of an illegitimate child to state in the certificate of birth the name of the father is unique. It may finally be observed that Minnesota in 1917 took care to substitute the word illegitimate for bastard in the statutes where the latter term occurred.

2. THE ILLEGITIMATE CHILD AND THE MOTHER.

The dependent status of the married woman at the common law resulted not only in the absolute dormancy of any legal rights of the mother during the lifetime of the father but exerted its influence even after his death; for the father had power by deed or will to appoint a guardian for his minor children, and the statute granting or confirming this power (1670) ignored any rights of the mother. With such an attitude toward the rights of the lawful mother it is not surprising if we hear little of the rights of the illegitimate mother. She is first recognized in criminal legislation, correctional measures being provided for by statutes 18 Eliz. c. 3, and 7 James I, c. 4 (Blackstone IV, 65). An act of 1623 made it punishable as murder if a lewd woman concealed the birth of her child and the child was found dead, unless she proved that it had been born dead. (Stephen, *History of Criminal Law*, III, 118.) The concealment of the birth and death of a child has since been made an offense without reference

to illegitimacy. (Criminal law amendment act, 1828, sec. 14.) The poor law amendment act of 1834 gave the illegitimate child the settlement of the mother and imposed upon her a duty of support; and her neglect to maintain the child when able to do so, whereby the child becomes chargeable on the parish, is punishable. (Poor law amendment act, 1834.) The English statute does not appear to recognize other reciprocal rights and obligations between mother and illegitimate child until the workmen's compensation act of 1906, which takes care of actual dependency though based on illegitimate parentage.

The mother's custody of the child was recognized by the courts from the end of the eighteenth century where the child was taken from her by force or fraud, a grant of habeas corpus under such circumstances not necessarily implying a legal right in her to the person of the child. (*R. v. Soper*, 5 Term R. 278, 1793; *R. v. Hopkins*, 7 East 579, 1806.) But in 1883 the court of appeal conceded that the natural relationship gave rise to a right of custody. (*Queen v. Nash*, 10 Q. B. 454.)

The English law has never admitted any right of intestate succession between mother and illegitimate child.

For America we must assume the continued existence of the English common law (unaffected by English statutes) in the absence of proof to the contrary.

The courts of Connecticut have held that by the custom of that Colony and State the relation of the mother to the illegitimate child is substantially the same as to a lawful child, carrying with it rights of inheritance, and enabling the child to take under gifts to the issue of the mother, if "lawful" issue is not expressly specified. (5 Conn. 228, 6 Conn. 35, 12 Conn. 165, 88 Conn. 269.) No such change of custom has been asserted for any other jurisdiction, but a legal relation between mother and child seems to be tacitly assumed. Georgia, where the common law is in a manner codified, declares the mother to be the only recognized parent of the illegitimate child (3028).

American legislation has, however, recognized the relation between mother and illegitimate child in such a manner as to approximate the status to that of lawful parent and child. In this departure it had no English models to follow; the English legislation regarding concealment of birth and death—either confined to illegitimates or generalized—has, however, been generally taken over into our criminal codes: The most important statutory change of the common law is that relating to the right of inheritance; there are in addition scattered provisions relating to custody, guardianship, apprenticeship, and adoption to be noted.

Right of inheritance.

The statutes naturally distinguish the right to inherit from the illegitimate child and the right to inherit from the illegitimate mother, the latter right being not so commonly granted as the former. Thus, New York in the Revision of 1828, while giving the mother the right to inherit from the child, expressly declared the illegitimate incapable of inheriting (1 R. S. 753, 754, secs. 14, 19), while Massachusetts in the same year established reciprocal rights, as Virginia had done as early as 1785.

The States differ as regards the right to inherit from the kindred of child or mother as the case may be, and the statutes of each State must be consulted on this point; for the purposes of this summary the following observations will suffice.

The possibilities to be considered are:

1. AS REGARDS INHERITANCE FROM OR THROUGH THE CHILD.

- a.* The mother inherits from the child.
- b.* The mother inherits from the child's descendants (or other kindred).
- c.* The mother's kin (or specified near kin) inherit from the child.
- d.* The mother's kin (or specified near kin) inherit from the child's descendants (or other kindred).

2. AS REGARDS INHERITANCE FROM OR THROUGH THE MOTHER.

- a.* The child inherits from the mother.
- b.* The child inherits from the mother's kin (or specified near kin), particularly from other illegitimate children of his mother.
- c.* The child's descendants (or other kindred) inherit from the mother.
- d.* The child's descendants (or other kindred) inherit from the mother's kin (or specified near kin).

(See Dickinson's appeal, 42 Conn. 491, 509.)

A particular problem is presented in adjusting succession rights of or from illegitimates to claims of lawful relatives: Should illegitimate children take from the mother when she has lawful children, and should they take what the mother has received from her lawful husband? Should illegitimate children take only from other illegitimate children or also from her lawful children?

The natural order should, of course, be adhered to; i. e., the mother should not be admitted to succession in concurrence with the children or issue of the illegitimate, nor in preference to, or perhaps not even in concurrence with, the illegitimate's lawful spouse.

There is some danger in overlooking these common orders of priority where succession rights based on illegitimacy are introduced by separate legislation. Thus, in 1917 Delaware gave the illegitimate an unqualified right of succession from the mother, thereby, if effect were given to ordinary rules of construction, ousting the rights of the mother's lawful children; and a number of States in giving the

mother a right to inherit from the illegitimate child, ignore the prior claim of any husband or wife which the illegitimate may leave, and recognize merely the preferred right of the illegitimate's own issue.

In Kansas and New Mexico the mother is preferred, as an intestate heir, to the father, where the latter has acknowledged paternity. In Louisiana the reciprocal rights of succession depend upon formal acknowledgment by the mother. (Code, 918, 922.) In the District of Columbia the child does not inherit the mother's real estate if the mother was incapable of making a will (958).

Unless the legislature deliberately desires to exclude or subordinate illegitimate children where there are lawful children of the same mother, or desires to limit the right of succession so far as the mother's kindred are concerned, the simplest and adequate method of dealing with the matter is to declare that for purposes of applying the law of intestate succession or of descent and distribution, the relation between the mother and her kin and her illegitimate child and the kin of the child shall be the same as if the child were the lawful child of the mother. This is practically done, although with somewhat imperfect phrasing, in Florida (2292), and, likewise, in a rather circumstantial manner, by the Pennsylvania act of 1917; and the elaborate provision of Illinois seems to have the same effect.

Custody and guardianship.

In several States there is an express provision that the mother is the natural guardian of her illegitimate child (Arkansas, Missouri, Vermont); the provisions in other States (North and South Dakota, Oklahoma, Wyoming, and Arizona) that the mother may appoint a guardian for her illegitimate child, born or unborn, presupposes such natural guardianship. Missouri also entitles the mother to the child's earnings and binds her to support it to the extent of such earnings. In many States the settlement or residence of the illegitimate child follows that of the mother. In Hawaii and in Pennsylvania the child bears the name of the mother.

It has been seen that even in England the law now recognizes the rights of the illegitimate mother over the person of the child, and the right of natural guardianship may be assumed for all States. Such right is incidentally recognized in many States by provisions authorizing the mother to bind the illegitimate child as an apprentice, as the father may his lawful child. This is a matter of relatively slight importance now; but the same recognition is found in most of the adoption laws of the American States. Where these require the consent of the natural parent, such consent, for the illegitimate child, is always required to be obtained from the mother. The provisions dispensing with consent in case of unfitness or abandonment are the same for illegitimate mothers as for legitimate parents

and are consequently of no particular significance in connection with the law of illegitimacy. Mississippi and South Carolina also expressly recognize the relation between mother and child in the wrongful-death act.

In view of the various provisions recognizing as between the mother and the illegitimate child one or more if not all the incidents of parenthood, it is safe to say that they sustain to each other the legal relation of parent and child. From this it would also follow that the mother is liable to the penalties of the modern abandonment statutes which speak of abandoning one's child or minor child or child under a specified age. While there seem to be no judicial decisions directly in point, this is probably due to the fact that an abandonment act contemplates primarily delinquency on the part of the father.

The peculiar position of the illegitimate mother is recognized in Massachusetts and New Hampshire by giving her the right to give up the child while it is under the age of 2 years to the State board of charities. In these States this operates as a consent to the adoption of the child by another, and in Michigan, likewise, an institution to which an illegitimate child is surrendered by the mother gives the required consent to the adoption of the child.

The law might be considerably simplified by a general declaration to the effect that for the purpose of all legal rights and obligations an illegitimate child should be deemed to be the legitimate child of its mother. Such is the German law, Civil Code, section 1705: "The illegitimate child has in relation to the mother and to the relatives of the mother the legal position of a legitimate child." It might be proper to contain a reservation for gifts made to or in favor of the "lawful" issue of a woman; but ordinary rules of construction would probably exclude the illegitimate child under such a form of gift, as is also recognized in Connecticut. (88 Conn. 269, 282.)

3. THE ILLEGITIMATE CHILD AND THE FATHER.

In general.

As before stated, the relation between the father and the illegitimate child is recognized by the common law in one respect, namely, for the purpose of counting the degrees within which marriage is prohibited. (*R. v. Brighton*, 1 B. & S., 447.) American statutes have adopted this principle by making the law regarding incestuous marriages apply to illegitimate as well as legitimate relationships. Knowledge of the relationship is not required to invalidate the marriage, though it probably is for the purpose of treating incest as a crime.¹ For all other purposes the father and the illegitimate

¹ Expressly so provided in English punishment of incest act, 1908, sec. 1. This act also applies to illegitimate relationship (sec. 3).

child are by the common law strangers to each other. A father may receive an illegitimate child into his family and treat it as his own, and he may remember it by will, but if he gives to his children by a named woman, not his wife, generally, so as to include children other than those recognized by him as such at the time of the will, the gift is held in England to be void for uncertainty, since the law will not inquire whether children born by a woman through illicit intercourse are born of this or that particular man. For this civil purpose, then, the English law adopts the principle of the French Code, superseded only in 1912, that inquiry into paternity will not be undertaken. The will may, however, give to the children of the woman, or even to the children of the woman who are reputed to be the testator's, since the testator's actual paternity in that case is irrelevant. (Hastie's Trusts, 35 Ch. D., 728.)

The statute law of England takes cognizance of the relation between father and illegitimate child only in the bastardy support legislation, to be more fully noted presently, and the workmen's compensation act of 1906 (sec. 13).¹

American legislation.

a. Legitimation.—While most American States provide for legitimation of illegitimate children by the marriage of the parents, only a minority of States permit legitimation without such marriage. Such provision may be desirable where the death of the mother prevents a marriage to the father.

Legitimation where permitted is either formal or informal; if formal, either through a judicial proceeding or without one.

Legitimation by judicial proceeding is found in Alabama, Georgia, Mississippi, North Carolina, and Tennessee. The method is a simple petition for a decree or order legitimating the child, and, if so desired, giving him the name of the father; the latter consequence, it seems, does not need special provision. The right to inherit is generally expressed in terms; this provision, if, as in Mississippi, confined to declaring the child the heir of the father; is calculated to throw doubt on the right of the father to inherit from the child, which is a consequence of legitimacy. The reciprocal right is expressly declared in North Carolina.

In Michigan legitimation is effected by a writing executed and recorded like a deed; the child becomes legitimate to all intents and purposes. In Louisiana legitimation requires a notarial act.

California illustrates the type of informal legitimation: "The father of an illegitimate child, by publicly acknowledging it as his own, receiving it as such, with the consent of his wife, if he is married, into

¹ The national insurance act, 1911, defines dependents as including such persons as the approved society or insurance committee shall ascertain to be wholly or in part dependent upon his earnings (sec. 79). The war-pension legislation likewise speaks of "dependents."

his family, and otherwise treating it as if it were a legitimate child, thereby adopts it as such; and such child is thereupon deemed for all purposes legitimate from the time of its birth."

The same or a similar provision is found in (among other States) Arizona, Maine, Montana, Oklahoma, North and South Dakota, Nevada, and Utah.

Where no provision is made for legitimation (i. e., in the majority of States), practically the same effect can generally be accomplished by adoption. (See, e. g., Vermont, sec. 3757.) Adoption may have the advantage of not disclosing the fact of illegitimate parentage and birth, which outweighs the theoretical benefit of removing the stain of illegitimacy by formal legitimation. If adoption may leave the child outside the scope of gifts made to the issue of the adopting person, the same doubt may arise in case of legitimation, for it is not clear that a gift to the lawful issue of a person would apply to legitimated issue.

A difficulty exists under adoption laws like that of Illinois where a person may adopt only a child not his own. Here there is no way of giving the illegitimate child a better status after the mother has died. An act of Illinois of 1915 expressly allows a person to adopt the child of his wife, but the difficulty with regard to the illegitimate child is not removed.

Where the mother is alive, legitimation should not be permitted, except by marrying her, or without her consent, if the father is married to some other woman. Under the existing laws regarding legitimation, difficult questions may arise as to the respective rights of father and mother after legitimation, illegitimate competing with legitimized parentage. (*Templeman v. Brunner*, 42 Okla. 6.) Where the mother is alive and the father can not marry her, adoption seems the more appropriate proceeding, since the adoption laws take cognizance of the rights of the natural parent.

b. Rights of inheritance.—Some States give, without express legitimation, a right of inheritance to a child in case of acknowledgment by the father. California attaches this effect to an acknowledgment in writing, but so that the child does not represent the father in inheriting from the latter's kindred.

Kansas grants this right as follows: "[Illegitimate children] shall inherit from the father whenever they have been recognized by him as his children; but such recognition must have been general and notorious, or else in writing" (3845). The provision in New Mexico is the same. Iowa, and since 1917 also Wisconsin, add to the latter provision a right to inherit from the father whose paternity has been

proved during his lifetime, but in Wisconsin (as in California) the child does not inherit as representing the father.

In these States, if the recognition is mutual the right of inheritance is reciprocal, but in Kansas and New Mexico the mother is preferred as an heir to the father.

South Carolina recognizes legitimation by adoption. In that State a father who has a wife or lawful children may not as against them give or bequeath to an illegitimate child more than one-fourth part of his estate, and this restriction also applies after the child is adopted, and is in that event extended to the child's right to inherit (3454, 3575, 3798).

Congress in 1887 annulled the laws of the Territory of Utah recognizing the capacity of illegitimate children to inherit and declared that no illegitimate child should thereafter be entitled to inherit from the father, with certain savings. This legislation is superseded by the present laws of the State of Utah.

c. Law of Louisiana.—In Louisiana the law recognizes the special status of natural children. These are illegitimate children acknowledged by the parents or either of them, the relation between the parents being such that at the time of conception they were legally capable of contracting marriage. Natural children inherit from the parent who has acknowledged them (but not from the relations of the parent); in the case of the father, if there are no lawful relatives or wife to inherit, i. e., only to the exclusion of the State; from the mother, if she leaves no lawful children or descendants. On the other hand, the natural child, dying without posterity, transmits his estate to the acknowledging parent or parents,¹ or if they be dead to the natural brothers and sisters (arts. 918-923). The natural child is further restricted in his capacity to receive property by gift or by will from the parent. If there are legitimate descendants, the permissible portion is measured by the needs of the child; if none, it is one-fourth or one-third of the property according to the proximity of the lawful heirs (1483-1488). Adulterine or incestuous children can under no circumstances receive more than bare sustenance.

d. Other provisions.—Besides the provision for legitimation and inheritance, the most important legislation bearing upon the relation between father and illegitimate child is that looking toward compulsory support, which makes the bulk of bastardy legislation and which will be considered separately.

A right of custody is rarely recognized, but is conceded in Illinois to the father after the child has reached the age of 10, and before if the mother is unfit.

A number of recent workmen's compensation acts include among children entitled to the benefit of the act either illegitimate children

¹ If not acknowledged, not even to the mother. Succession of Lacost, 77So., 479, 1918.

in general (Nevada) or acknowledged illegitimate children (Idaho, Indiana, Kentucky, Louisiana, Hawaii, New Mexico, New York, and Vermont) or children legitimated prior to the injury (Montana, Oregon, and Washington).

In Minnesota, by a law of 1917 (ch. 222), the father of an illegitimate child, who has acknowledged paternity in writing or against whom the fact of paternity has been adjudged, is entitled to notice in proceedings for the adoption of the child.

The statutory provisions relating to the illegitimate father make it clear that the law does not recognize the normal relation of parent and child as subsisting between him and the child.

It follows that abandonment acts which speak of a child or minor child, and do not expressly refer to the illegitimate child, do not apply to the latter: so held in New York (*People v. Fitzgerald*, 167 App. D. 85); District of Columbia (*Moss v. U. S.* 29 App. D. C. 188).

The abandonment acts applying to illegitimates will be noted in connection with the support laws.

It is finally necessary to notice the radically new legislation of North Dakota, enacted in 1917, which declares every child the legitimate child of its natural parents, but apparently limits this broad principle by the failure to provide equally broad remedies; for the law provides that the mother may within one year from the birth of the child sue to establish paternity, and makes the mother incompetent as a witness if the father is dead. How if the mother fails to sue within the year? How if she dies in childbirth? Is the operation of the act dependent upon the formal establishment of paternity? If not, what purpose is served by a one year's limitation of the proceeding? The limitation can certainly have only the effect of embarrassing and throwing doubt upon the operation of the main provision of the act.

North Dakota also provides (1915, ch. 183, sec. 8) that an illegitimate child born in a maternity hospital shall be given the name of the father, if known.

4. LEGISLATION FOR THE SUPPORT OF THE ILLEGITIMATE CHILD.¹

The character of the legislation.

English and American laws take cognizance of illegitimate paternity mainly for the purpose of enforcing against the father a duty of support. Historically the legislation is connected with the system of poor relief. The method of proceeding is adapted to parties who are indigent or irresponsible. The statutes partake of the character of criminal legislation and are sometimes found in

¹ Most mothers' pension laws have reference to children born in wedlock; some laws are not specific; unmarried mothers are expressly provided for in Michigan, and by a bill at present (April, 1919), pending in Nebraska.

the parts of codes or revisions dealing with crimes. In the course of a full discussion the Supreme Court of Massachusetts says (*Hill v. Wells*, 6 Pick. 104, 1828):

This process being neither wholly civil nor criminal, but having many of the features and incidents of each, we are left to determine from the manner in which the legislature has treated it whether they intended to include it in the one or the other class of suits. And they might well, in some respects, treat it as a civil, and in others as a criminal, suit.

Warrant and commitment are borrowed from criminal procedure; statutes use the term "guilty," "conviction," and "fine"; Georgia speaks even of the mother as an offender; in Pennsylvania an indictment is found against the alleged father.

On the other hand, the fact that the defendant may be proceeded against in his absence and the finding against him be based upon a mere preponderance of proof stamps the proceeding as civil. We find it distinctly provided that while the prosecution shall be in the name of the State, the rules of evidence and of competency of witnesses, and the trial, shall be governed by the law regulating civil suits. (*Indiana*, 1015, 1018; *Kansas*, 4026.)

In most States the proceeding is exclusively against the father; but in New York a mother possessed of property and failing to comply with an order of support may be committed until compliance or execution of an undertaking; and the regular compulsory proceedings for the support of poor relatives may be expressly made available against the mother of an illegitimate child. (*Iowa*, 2250.)

The absence of a common-law duty of support bears upon the construction of statutory clauses proclaiming a duty of maintaining illegitimate children in general terms. If the duty is a purely statutory one, the method pointed out by statute for enforcing it must be pursued as the exclusive remedy; if the duty were a common-law duty, it might be contended that a suit at common law was available as a cumulative remedy. Such general clauses are, however, very exceptional.¹

It should also be borne in mind that the only remedy at common law to enforce a duty of support is a suit for reimbursement by one who has furnished the support. A direct action to enforce support brought by the child or on its behalf against the father is unknown to the common law.

The absence of a common-law duty should also be considered when it becomes a question of making family desertion and non-support laws applicable to illegitimate children, as is done in a number of States. The offense of deserting one's family is different from the offense of not supporting an illegitimate child, and to cover the two offenses indiscriminately by one provision tends to

¹ *Moncrief v. Ely*, 19 Wend. 406.

confuse different kinds and grades of obligation. There is likely to be a disposition on the part of legislative bodies to differentiate and to treat the default with regard to illegitimate children as an offense of less degree.

English bastardy law.

The foundation of the English bastardy law is found in 18 Elizabeth, ch. 3, 1575-1576, which reads as follows:

Concerning bastards begotten and born out of lawful matrimony, (an offence against God's law and man's law) the said bastards being now left to be kept at the charges of the parish where they be born, to the great burden of the same parish, and in defrauding of the relief of the impotent and aged true poor of the same parish, and to the evil example and encouragement of lewd life: (2) it is ordained and enacted by the authority aforesaid, That two justices of the peace (whereof one to be of the quorum, in or next unto the limits where the parish church is, within which parish such bastard shall be born, upon examination of the cause and circumstance) shall and may by their discretion take order, as well for the punishment of the mother and reputed father of such bastard child, as also for the better relief of every such parish in part or in all; (3) and shall and may likewise by like discretion take order for the keeping of every such bastard child, by charging such mother or reputed father, with the payment of money weekly or other sustentation for the relief of such child, in such wise as they shall think meet and convenient: (4) and if after the same order by them subscribed under their hands, any the said persons, viz. mother or reputed father, upon notice thereof, shall not for their part observe and perform the said order; that then every such party so making default in not performing of the said order, to be committed to ward to the common gaol, (5) there to remain without bail or mainprise, except he, she or they shall put in sufficient surety to perform the said order, or else personally to appear at the next general sessions of the peace, to be holden in that county where such order shall be taken, (6) and also to abide such order as the said justices of the peace or the more part of them then and there shall take in that behalf (if they then and there shall take any), (7) and that if at the said sessions the said justices shall take no other order, then to abide and perform the order before made as is above said.

It will be observed that, while there is a perfunctory reference to lewdness and to bastardy as offenses against God's law and man's law, the main purpose of the act is to relieve the parish from the burden of support, and that the liability for such support is placed upon mother and reputed father alike. The liability of the father as against the mother is not emphasized until the act of 49 Geo. III, ch. 68 (1809). (Nicholls, *History of English Poor Law*, II, 138.)

The original legislation thus remained practically unaltered for over 200 years. An act of 1844 (7 and 8 Vict., ch. 101) further modified the principle of the earlier law by giving the primary claim for support to the mother instead of, as theretofore, to the poor-law authorities. The bastardy acts of 1872 (35 and 36 Vict., ch. 65) and 1873 (36 Vict., ch. 9), which constitute the present law upon the subject, again give the poor-law authorities the right to proceed where the child has become chargeable to the public. An act of 1914 provides for the appointment of a collecting officer to enforce the payments

to be made by the father. An act of 1918 raises the amount of the weekly allowance. Bastardy support proceedings are treated in English law books generally under the title "Affiliation."

The English Forms in Bastardy Proceedings, dated March 13, 1915, are fully set forth in volume 79, Justice of the Peace, pages 152, 164, 176, 187.

American legislation.

Bastardy support legislation, following the lines of the English law, was introduced in America at an early period. The state of the law at the beginning of the eighteenth century in one of the colonies is set forth in Capen's History of the Poor Law of Connecticut as follows:

It was not many years after the settlement of Connecticut that the birth of bastards compelled attention. Laws against fornication were enacted. The earliest penalty was one or more of the following: "enjoining to marriage, or fine, or corporal punishment." In 1702 the punishment was made either a fine of 5 pounds or 10 stripes, inflicted on each party.

The support of bastards received careful consideration. At first each case was decided on its merits. Thus, in 1645 the general court ordered the mother and reputed father of such a child to be whipped, but placed the entire support of the child upon the father.

The need of a general law was seen, and in the revision of 1673 it was included. Its special purpose was to define the requirements for the conviction of the father.

For the child's support the law provided that where any man is legally convicted to be the father of a bastard child, he shall be at the care and charge to bring up the same, by such assistance of the mother as nature requireth, and as the court from time to time (according to circumstances) shall see meet to order.

This principle of joint support has ever since been followed.

To convict, it was enacted that if on the trial the court was not satisfied as to the identity of the father by confession or "manifest proof," "then the man charged by the woman to be the father, she holding constant in it (especially being put upon the real discovery of the truth of it in the time of her travail)," should "be the reputed father, and accordingly be liable to the charge of maintenance as aforesaid * * * notwithstanding his denial"; unless the circumstances of the case and pleas in his behalf led the court to acquit him, and "otherwise dispose of the child and education thereof; provided always in case there be no person accused in the time of her travail, it shall not be available to abate the conviction of a reputed father."

This method of adjudging a man the reputed father and obliging him to assist the mother in supporting the child became the regular method, and was retained until 1702. It should be noted that this law did not make the accusation during travail essential to conviction.

Several changes were made by the laws of 1702. The interests of the defendant were guarded by requiring the examination of the mother at the trial to be upon oath and by making the accusation in time of travail necessary to conviction. The provision of the law of 1673 for a conviction by confession or "manifest proof" was stricken out, perhaps because it was found impossible ever to secure such.

On the other hand, the person convicted was required to give security to perform the order of the court "and to save the town or place where such child is born, free from charge, for its maintenance." He might be committed to prison until he found sureties.

The last important change was that exclusive jurisdiction was given to the county courts. All that an assistant or justice of the peace might do was to bind over to the county court one charged or suspected of having begotten a bastard. The county

court might order the continuance or renewal of the bond, in case the child was still unborn when the case was called.

The nature of the obligation may be seen from a judgment rendered some years later under this law. In 1723 the county court in New Haven ordered a reputed father to pay for the support of his child 2s. a week until the child became 1 year old. The general court, on an appeal, adjudged that such a sentence was strictly in conformity with the law, although the defendant had been acquitted by a jury on the charge of fornication.

One other law regarding bastardy deserves brief notice. The general court in 1699, in view of a recent occurrence in Farmington, enacted, in practically identical form, a Massachusetts law of 1696 to punish the concealment of the death of a bastard. For concealing the death of a child who, if born alive, would have been a bastard, the mother was to suffer death as in the case of murder, unless she could prove by the testimony of at least one witness that the child was born dead.

There were no radical changes in the eighteenth century, and laws enacted in the early stages of independent State government have in many cases remained practically unaltered until very recent times or until the present day. The most striking feature of bastardy legislation is its stationary character, indicative of a lack of thought or movement as regards the relation of the father to the illegitimate child, or perhaps to a certain extent also of an extreme conservatism of sentiment. In Massachusetts, until the new act of 1913, the leading features of the law of 1785 were retained; Georgia's law is still substantially that of 1793; the law of New York, contained in the Code of Criminal Procedure of 1881, is substantially a copy of the law found in the Revised Statutes of 1828 (I, p. 640); in Ohio there has been no radical change since 1824; in Florida, since 1828; in Iowa, since 1840; in Illinois, since 1845; in Alabama and Kentucky, since 1852. Strikingly new legislation, however, was introduced in Minnesota and in North Dakota in 1917.

The usual features of statutory bastardy proceedings are: A complaint by a woman who is pregnant or has been delivered of a bastard child to a magistrate (justice of peace); a warrant issued by the magistrate against the person named in the complaint with direction to appear at a hearing; a preliminary hearing at which the accused may exculpate himself; if there is a *prima facie* case against him, an order binding him over for trial, which takes place after the birth of the child; a trial or hearing, at which a jury may be demanded; judgment, if against defendant, providing for maintenance of child; maintenance through periodical payments; enforcement of these payments and security for the same.

The proceedings are regulated with varying fullness, Pennsylvania, Florida, and Iowa being types of brief statutes, while very full provisions are found in Vermont, New York, New Jersey, Delaware, Indiana, Kansas, Utah, and Hawaii.

A purely civil obligation to support an illegitimate child, enforceable by civil suit, was created in California by act of 1913 (sec. 196a,

Civil Code). Since at common law the liability of the father to support his lawful child (assuming it to exist as a legal liability) is not the subject of a direct action by the child against the father, some method of enforcing this obligation had to be indicated, and this was done by reference to the provisions for enforcing the duty of the divorced husband to provide for the maintenance of wife and children.

Bastardy, i. e., the begetting of an illegitimate child, is made a misdemeanor and prosecuted as such in Pennsylvania (fornication and bastardy), Nevada, and Massachusetts (under the recent act of 1913).

The duty of maintenance can likewise be enforced by criminal prosecution, where nonsupport or abandonment laws are made to apply to illegitimate as well as to legitimate children. This is the case in California, Colorado, Connecticut, Delaware, Massachusetts, Nebraska, New Hampshire, Ohio, Pennsylvania, West Virginia, and Wisconsin. The same is true, in effect, of the law of Minnesota (1917), which State also punishes the father who absconds in order to avoid proceedings while the woman is pregnant or within 60 days after the birth of the child.

The following jurisdictions are, as far as ascertainable, without bastardy support legislation: Alaska, Idaho, Missouri, New Mexico, Texas, Virginia,¹ and Washington.² For the District of Columbia such legislation was not enacted until 1912; for Oregon not until 1917. The absence of legislation in Missouri has been commented on judicially (*Easley v. Gordon*, 51 Mo. App., 637).

An abstract of several statutes representing the types of legislation above indicated will be useful as an introduction to a discussion of particular features of bastardy laws and a comment upon them.

The briefer form of enactment providing for the ordinary proceeding will be illustrated by Florida; the longer, by Illinois; the civil obligation, by California; the criminal liability, by Massachusetts; the civil action in the name of the State, by Iowa.

The law of Florida, as a type of a brief support-enforcing act.

A single woman, pregnant or having been delivered of a bastard, may complain to a county judge or justice of the peace of her district and accuse some one of being the father of the child. Process is then issued against the person accused to bring him before the magistrate, and upon his appearance the parties and their evidence shall be heard. If sufficient cause appears, the accused is bound in bond with security to appear at the next term of the circuit court in the county. In the circuit court the issue is tried by a jury. - The reputed father has the right to appear by counsel. If the issue is

¹ A bastardy act of Virginia was repealed by the Code of 1887.

² In 1919 a bastardy support law was enacted in Washington.

found against him, he is condemned by the judgment to pay the expenses attending the birth of the child at the discretion of the court, and \$50 yearly for 10 years toward the support and education of the child. The defendant shall give bond, with security approved by the court, for such payments to be made to the mother. The bond has the effect of a judgment, and execution may issue as often as money becomes payable. If the child is not born alive, or dies, the bond becomes from then on void. On failure to comply with the judgment the defendant is imprisoned for a term specified by the court, not to be longer than one year.

The law of Illinois, as representing the more elaborate type of the support-enforcing law.

An unmarried woman, pregnant or delivered of a bastard, may complain to a justice of the peace of the county in which she is pregnant or delivered, or where the accused may be found, and accuse on oath a person of being the father. The justice thereupon issues his warrant against such person, to have him brought before him or some other justice. The warrant may be executed in any county of the State.

Upon appearance of the accused, the justice in his presence examines the woman on oath. The defendant may controvert the charge. If sufficient cause appears, the accused is bound in bond with sufficient security to appear at the next county court (in Cook County, in the criminal court). On neglect or refusal to give bond and security the accused is committed to the county jail. The issue is tried by a jury, the defendant having the right to controvert the charge.

The case is continued until the birth of the child and until the mother is able to appear, the defendant being placed under recognizance to appear. The mother and the defendant are competent witnesses, their credibility being left to the jury. If the jury find for defendant, he is discharged and the mother is liable for the costs. If the issue is found against the defendant or he confesses, he is condemned to pay not exceeding \$100 for the first year, and not exceeding \$50 yearly for nine succeeding years, for the support and education of the child, and also the costs of the prosecution. For the making of such payments he shall give bond with sufficient security. The payments are to be made in quarterly installments to the clerk of the court. On refusal or neglect to give security, the defendant is committed to the county jail until he complies with the order or is discharged according to law, the discharge not to be made within six months. The money is applied for the support of the child as directed by the court. If a guardian is appointed for the child, the money is paid to the guardian. Upon default in any installment,

principal and sureties in the bond are cited to show cause why execution should not issue. Execution after judgment on bond is issued against goods and chattels of the principal and sureties. Upon such default the judge has also power to adjudge the father guilty of contempt and commit him to the county jail until payment; but the commitment does not stay execution. Provision is also made for making the judgment a lien upon the defendant's real estate.

If the mother is living and desires the custody of the child, the father is not entitled to it until the child arrives at the age of 10, unless on notice to the mother and on full hearing she is found not to be a suitable person. If the child is not born alive, or dies, the bond shall from then on be void. The bond also becomes void upon intermarriage of the parents, which makes the child legitimate.

Prosecutions must be brought within two years from the birth of the child; the time during which the accused is absent from the State is not counted. The mother may release the father upon terms consented to in writing by the county judge. In the absence of such consent, a release for less than \$400 is not a bar to a suit, but the amount paid is credited. For \$400 the liability may be released by the mother without the consent of the judge.

The statute of California, as illustrating a general civil obligation.

The Civil Code provides in section 196a, enacted in 1913: The father, as well as the mother, of an illegitimate child must give him support and education suitable to his circumstances. A civil suit to enforce such obligation may be maintained on behalf of a minor illegitimate child by his mother or guardian, and in such action the court shall have power to order and enforce performance thereof, the same as under sections 138, 139, and 140 of the Civil Code in a suit for divorce by the wife.

Section 140 provides: The court may require the husband to give reasonable security for providing maintenance or making any payments required under the provisions of this chapter and may enforce the same by the appointment of a receiver or by any other remedy applicable to the case.

According to section 139 the court may compel the husband to provide for the maintenance of the children.

California also makes the nonsupport of an illegitimate child a criminal offense.

The law of Massachusetts, as the type of a penal statute.¹

A person who gets a woman with child, not being her husband, is guilty of a misdemeanor. Proceedings may be instituted in a municipal district or police court either where the man or where the woman lives. If the defendant pleads guilty or is found guilty, the court enters a judgment adjudging him the father of the child. After a

¹ Laws of 1913, ch. 563.

plea of not guilty, such judgment can not be entered against him against his objection, until the child is born or the mother is found six months advanced in pregnancy. The defendant may appeal to the superior court as in other criminal cases. Subject to appeal and grant of new trial, the adjudication, whether a sentence be imposed or not, is final and conclusive.

If the court is satisfied that no living child will be born of which the defendant at the time of the complaint was the father, or that the defendant and the mother have married each other, or that adequate provision has been made for the maintenance of the child, the complaint may be dismissed and any adjudication vacated. If at the time of adjudication the child is not born, the case is continued until the child is born. A payment to the mother or a probation officer may be ordered for confinement expenses. Failure to pay may be punished as contempt of court by two months' imprisonment in jail, unless the order is sooner complied with.

After adjudication, the court may also make an order for the care and custody of the child and revise the same from time to time. After adjudication and after birth of the child, the defendant shall be liable to contribute reasonably to the support of the child during minority and shall be subject to all penalties and orders for support and maintenance provided in case of a parent unreasonably neglecting to provide for a minor child under the act of 1911, the practice of that act to be followed by analogy.

(The act of 1911, ch. 456, provides for suspension of sentence and placing the defendant on probation; the court may order him to make periodical payments to the probation officer; the court may also release him from probation on his entering into recognizance with or without surety, in such sum as the court may order. If the defendant violates the order, the court may sentence him or enforce the suspended sentence.)

Any father of an illegitimate child, whether the child has been begotten within or without the State, who neglects or refuses to contribute reasonably to the support and maintenance of the child is guilty of a misdemeanor, and upon conviction is liable to the penalties and orders provided for by chapter 456 of the Laws of 1911.

If there has been a final adjudication under the first paragraph, it is conclusive. Otherwise the question of paternity is established in proceedings under the last preceding paragraph.

The law of Iowa, as the type of a civil action prosecuted by the State.

When a woman residing in any county of the State is delivered of an illegitimate child, or is pregnant with such child, any person may complain to the district court of her residence charging the proper person with being the father. The proceeding is entitled in the name

of the State against the accused as defendant. Notice is given to the defendant by the clerk of the court. The filing of the complaint creates a lien upon the real property of the accused in the county. If the complaint is verified, the judge may order an attachment without bond, specifying the amount of property to be seized, and revocable at any time on terms. The county attorney prosecutes on behalf of the complainant. Trial is had as in ordinary actions. If the accused is found guilty, he is charged with the maintenance of the child in such sums and in such manner as the court shall direct. Execution may be issued for any sum ordered to be paid. The sum may be increased or diminished or order vacated on such notice as the judge may prescribe.

The law of Iowa lacks provision for commitment to jail, the supreme court of the State having held that this constitutes imprisonment for debt and is unconstitutional. (*Holmes v. State*, 2 Iowa 501, 1850.)

COMMENT ON PARTICULAR FEATURES.

1. THE COURTS HAVING JURISDICTION.

In the ordinary form of bastardy proceeding the jurisdiction is divided between a magistrate (justice of peace, police justice, county judge) and a court having regular jurisdiction in civil or criminal cases (circuit, district, superior; sometimes also county court). The magistrate receives the complaint, issues the warrant, and conducts the preliminary hearing as the result of which the defendant is discharged or bound over; and the court tries the case, gives judgment, and enforces it. The preliminary proceeding is dispensed with where there is simply a civil suit.

The magistrate is authorized to try the case in Delaware, New Jersey, New York, and North Carolina, subject to an appeal to the higher court. This permits a disposition, in many cases final, by a tribunal which is not confined to intermittent sittings at infrequent terms.

In the District of Columbia and in Hawaii the juvenile court is given charge of bastardy proceedings. The advantages of having bastardy proceedings, at least in their preliminary stages but preferably all through, in the hands of courts accustomed to dealing with social problems and with quasi delinquents who are not ordinary criminals are obvious; but the appropriate organs will not always be available in every part of the State. In metropolitan courts there is apt to be sufficient flexibility of organization to permit of the assignment of bastardy cases to specially qualified judges, and this is done in the municipal court of Chicago, where a branch of the court, called the court of domestic relations, takes charge of all bastardy complaints.

2. DISTRICT OF JURISDICTION.

The majority of States require the complaint to be lodged in the court of the district where the woman resides or where the child is born, and only under a relatively small number of laws (e. g., Illinois, Indiana, Maryland, Mississippi, New Hampshire, South Dakota, Utah) is the jurisdiction available in which the alleged father resides. The dominant idea seems to be that the proceeding belongs to the forum of the district which would have to bear the charges of supporting the child if the father can not be made amenable.

It will be shown later on that there are important considerations for making the forum of the defendant's residence generally available for bastardy proceedings irrespective of the residence of the mother.

The nonsupport or abandonment act of Ohio, which applies to illegitimate children, provides that the offense shall be held to have been committed in any county in which the child or pregnant woman may be at the time the complaint is made (13011, 13014), and, further, that citizenship once acquired in the State by a parent of an illegitimate child living in the State, for the purpose of the law, shall continue until the child has arrived at the age of 16 years, provided the child so long continues to live in the State (13021). Colorado has a similar provision. These provisions are apparently intended to be in aid of jurisdiction, but their effect is not entirely clear.

3. AT WHAT TIME THE PROCEEDING MAY BE INSTITUTED.

Most laws allow the complaint to be preferred either when the woman is pregnant or after she has been delivered of the child. The institution of proceedings prior to birth is permitted in order to give an opportunity for compelling the defendant to give security for appearance and compliance with support orders. In some States, particularly in New Jersey and New York, provision is also secured for sustenance during confinement and the expenses thereof. In a few States (Arizona, Nebraska, Ohio, Oregon) the law permits at the first hearing a settlement with the mother by payment or by giving security.

4. STATUTE OF LIMITATIONS.

Many statutes set a limit of time for the institution of bastardy proceedings ranging from six months (Hawaii) to four years (Utah), counted usually from the birth of the child. A limitation thus counted fails to take account of a very possible contingency. The father of an illegitimate child may maintain it or contribute toward its support for the period specified in the statute and then discontinue his payments. Any statutory proceeding would thereafter be barred by the defense that the time for making a complaint had expired. This defect is met by making the statutory period of limitation count from the

birth of the child, unless there have been payments toward its support, and in the latter event from the last payment or from the last acknowledgment of liability. A number of States guard the limitation accordingly (so Alabama and Maryland). Mississippi saves the right of the supervisors of the poor to bring proceedings.

If the begetting of a bastard child is made a crime, it will be necessary, in order to avoid the bar of the statute of limitations, to make nonsupport of the illegitimate child a distinct offense. This is done in Massachusetts.

If the father's obligation is looked upon as a continuing obligation in favor of the child, there is ground for excluding the statute of limitations altogether.

5. WHO MAY COMPLAIN.

The parties that ordinarily come in question are the mother or expectant mother and the proper authorities that would be charged with the support of the child.

Under the Iowa law "any one" may complain. Under such a provision conceivably a representative of some charitable organization might act as complainant. The right might become objectionable if the unofficial complainant or the county attorney conducting the case for him were authorized to compel the woman to disclose the name of the father. Such disclosure should be compelled only for the purpose of relieving the public of the expense of caring for the child.

Poor-law authorities are authorized to institute proceedings in many States, either concurrently with the mother or if she fails or neglects to prosecute (so in Arizona, Connecticut, Nebraska, New Hampshire, Vermont, Michigan); and in New Jersey and New York they alone can institute proceedings. Their authority was also exclusive under the first English act. Such a power will be exercised practically only if the child is liable to become a public charge. In that case it may become important to provide that the woman may be compelled to disclose the name of the father—a provision which is, of course, unnecessary if the woman acts herself as complainant. This obligation to disclose exists in a number of States if the mother is unable to give security for the support of the child. (See, e. g., Arkansas, Maryland, Georgia, North Carolina, South Carolina, Tennessee; also 4 Wend., N. Y., 555, 1830.)

Some States speak of the complaining mother as "a woman," others as "a single woman." The use of the latter term makes it doubtful whether a woman whose husband is living and undivorced can act as complainant. It is not easy to discover a clear policy favoring such restriction. In view of the strong presumptions in favor of legitimacy, frivolous or vexatious charges by married women are

unlikely. On the other hand, it may easily happen that a deserted wife or one living apart from her husband may become a mother under circumstances which make it possible at common law to establish the illegitimacy of the child. The equities in her favor may be as strong as in favor of an unmarried mother, and certainly the case of relieving the public from the charge of support is equally urgent. In view of these considerations the term "single woman" employed in the English bastardy acts has long been construed as including a woman living separate from her husband (see 1901, 1 K. B., 118), but American courts have failed to follow this construction (3 Dana, Ky., 453; 8 Vt., 70), and the term "unmarried woman" could not well be so interpreted. West Virginia makes special provision for complaint to be made by a married woman living separate from her husband for one year or more.

The question whether bastardy-support proceedings should be allowed in favor of a woman of ill repute is rightly treated not as one of right of action but merely of evidence. Louisiana and South Dakota seem to be the only jurisdictions making reference to this point, the former by providing that the oath of the mother is not sufficient to establish paternity, if she be known as a woman of dissolute manners or as having had unlawful connection with one or more other men before or since the birth of the child (art. 210); the latter, by admitting evidence of previous unchastity of the female (sec. 810). The analogy of seduction where previous chastity is required does not apply, for in bastardy proceedings it is the right of the child and not that of the mother which furnishes the primary consideration in allowing a cause of action. Unchastity is relevant, because it renders it difficult to fix the charge of paternity upon one particular man.

Statutes sometimes speak of preferring the complaint in a district where the child is chargeable. This raises the question whether bastardy-support proceedings are admissible where the mother is able to bear the charge of the child's maintenance. The connection between bastardy and poor-relief legislation seems to indicate such a restriction, but the equities on behalf of the mother favor a more liberal view. The limitation is clearly implied where only the poor-relief authorities have the right to institute proceedings, as in New Jersey and in New York.

In Tennessee the statute is explicit upon this point. It provides (sec. 7347) that the county court shall make no provision for a bastard except when he is or is likely to become a county charge, and states (sec. 7348) that the object of the provision for the bastard's support is to indemnify the county against the same.

A number of States require bastardy proceedings to be conducted or prosecuted by a public prosecuting officer (county attorney, district

attorney, State's attorney); so Iowa, Kansas, Kentucky, Montana, North Dakota, Oklahoma, Utah, West Virginia, and Wisconsin; and this would be the regular course where the proceedings are criminal. The majority of State laws are silent on the point.

Under the recent legislation of Minnesota (1917) the State board of control is authorized to initiate all legal and other action to secure proper provision for the illegitimate child.

6. PROCESS AND PRELIMINARY HEARING.

Upon a complaint in conformity to legal requirements (in writing, or reduced to writing by the magistrate, including oath charging some person with being the father) the justice issues process against the person charged. Unless the proceeding is purely a civil action, this process is a warrant of arrest and not a mere summons, and either by express provision or by the application of general rules this warrant may be served anywhere in the State.

In most States the service of the warrant seems to be an indispensable prerequisite for further proceedings. Indiana permits the complaint to be heard and determined though the defendant can not be found; but it has been held that constructive service can not be made the basis of a personal judgment (*Moyer v. Bucks*, 2 Ind. App., 591; *Beckett v. State*, 4 Ind. App., 136). In New Jersey, New York, Ohio, and Wyoming an order of attachment may be issued against property of a defendant who has absconded or conceals himself; the property attached may then be sold to satisfy the order of the court.

The problem of proceeding against an absent defendant will be discussed later on.

In Iowa where the proceeding is purely civil, as well as in Montana and Oklahoma, the filing of the complaint creates a lien upon the defendant's real estate in the county, and an order may issue attaching his other property; in Indiana such lien on real estate is created if upon the first hearing a finding has been made against the defendant.

Upon the service of the warrant the defendant is sometimes permitted to give an undertaking for his appearance at the final trial; but ordinarily the arrest is followed by a preliminary hearing before the committing magistrate, who examines the complainant, and may hear evidence on behalf of the defendant; there is no power to require the defendant to testify.¹ West Virginia requires a recognizance from the accused without any provision for a hearing. If no probable cause is found, the defendant is discharged; it has been held that this discharge is a bar to subsequent proceedings (5 Hill, N. Y., 443),

¹ Alabama says the justice "may examine the accused" (sec. 6366).

and this is expressly provided in Connecticut, subject to an appeal to a higher court (sec. 6006).

If the examining justice finds a *prima facie* case for the complainant, he binds the defendant over for trial. That is to say, the defendant must give security that he will appear at the trial and abide by the order of the court; sometimes also that he will indemnify the county from expenses. In New York and New Jersey the security also covers the expense of confinement; in Georgia it covers the entire expense of the maintenance and education of the child until it reaches the age of 14 years. If the defendant fails to give such security, he may be committed to jail. The security is by bond or recognizance in a sum fixed by the judge within statutory limits, which vary between \$200 and \$2,500, and generally required to be with sufficient surety or sureties.

In Pennsylvania, under a law of 1917, the court may discharge the defendant upon his own recognizance without security.

Mississippi provides that others than the parties, officers, and witnesses may be excluded from the preliminary hearing.

7. TRIAL.

The trial is in most States held after the birth of the child. A peculiar provision in Vermont says that a woman is not compellable to answer as to her pregnancy until 30 days after delivery (sec. 3123). In Massachusetts the adjudication may be made when the mother is six months advanced in pregnancy. In New York and North Carolina, where the charge may be tried in the first instance (subject to an appeal) by the justice of the peace, this trial may likewise take place before the birth of the child, but on appeal to the sessions the defendant must be discharged if the child is not born alive.

The trial is often required to be conducted as in civil cases, which means among other things that it may be had in the absence of the defendant and that judgment may be based upon preponderance of evidence. A jury may be had on demand, but—the case not being criminal—is not indispensable to the validity of the judgment. Several States provide for the exclusion of strangers or the public from the trial, so Michigan (sec. 15700) and New York (Judiciary Law, sec. 4); in Minnesota the records of the proceedings are shielded from publicity (sec. 3225e).

8. EVIDENCE.

There are few statutory provisions regarding evidence in bastardy proceedings. The English rule that the evidence of the mother must be corroborated (sec. 4 of act of 1872) has been incorporated in the recent act of Oregon (1917) but does not otherwise prevail in America. Louisiana forbids judgment in favor of the mother upon her own oath supported by proof of cohabitation with the alleged father out

of his own house, if she has had before or since the birth of the child intercourse with other men, or if she be known as a woman of dissolute manners (art. 210). The provision in South Dakota (sec. 810) that evidence of the previous unchastity of the female shall be admissible goes beyond the rule of the common law where such evidence is admitted only to show the possible paternity of another (*Corpus Juris*, *Bastardy*, p. 990). Connecticut expressly permits evidence of good character in behalf of the person accused as being the father (sec. 6014).

A peculiar feature of the law of evidence in bastardy proceedings is furnished by the accusation in travail or extremity of labor:¹

On general principles the deposition of the mother, made against the defendant before trial without notice to him, would not be admissible against him (1 Root, Conn., 154), but it might be different if the deposition were a dying declaration, and the statutes of Arkansas, Delaware, and Mississippi expressly admit such a dying declaration made in childbirth.

The accusation in travail which we find in the legislation of the New England States, of Pennsylvania, and of some other jurisdictions is, however, not a dying declaration, but simply a statement made concerning the paternity of the child during the labor of childbirth and constantly adhered to. Such an accusation was in the earlier New England legislation required as a foundation for bastardy proceedings, and later became merely admissible evidence, the woman being now allowed to testify as to her own statement (*Akeson v. Doidge*, 225 Mass. 574, 114 N. E. 736), while formerly when parties in interest were incompetent to testify evidence of the accusation in travail had to be given by others (2 Mass. 411).

The law of Tennessee on the subject of proof is altogether peculiar. If the mother upon oath accuses any man of being the father of the illegitimate child, the person accused is, upon the hearing at the county court, adjudged the reputed father of the child unless he file an affidavit clearly setting forth that justice requires an issue to be made to try the truth of the charge. If the affidavit denies sexual intercourse with the mother of the child from the first of the tenth month to the first of the sixth month next before the birth of the child, it shall be received as evidence on the trial (secs. 7342, 7343).

This provision can be traced back to a colonial law of North Carolina (1741, ch. 14), which requires the defendant to be adjudged the father of the child upon the charge on oath of the mother. Even now in North Carolina the finding is required to be against the defendant at the first hearing unless he deny the woman's charge under oath (sec. 254), and the woman's charge is presumptive evidence on appeal (sec. 255).

¹ The statement of the woman is also accorded special credit in the earlier French law (*Beaudry-Lacantinerie*, *Personnes*, No. 671).

9. JUDGMENT OR ORDER.

If on the trial the issue is found against the person charged, the substance of the judgment against him is an order for support, although in some States the judgment takes instead thereof, or in addition thereto, the form of a fine. Expenses for confinement are expressly provided for in a few States (Arizona, Arkansas, Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, Minnesota, New Jersey, New York, Oregon, Pennsylvania, Rhode Island, and Wisconsin).

The amount of the support is quite commonly in the discretion of the court or sometimes of the jury, without fixing any standard of maintenance either by the station in life of the mother or of the father. In some of the States, particularly in New England, the law merely requires that the father assist the mother in the support of the child.

Where the civil obligation of support is thrown in general terms upon the father, as it is in California, care should be taken to see that the general law of parent and child places a concurrent or subsidiary duty of support upon the mother, since otherwise she may be relieved entirely. The law of California covers this point clearly.

The order or judgment is usually not for one lump sum but for annual, monthly, or weekly payments. Under some laws the person to whom the payment is to be made is not specified, the duty being merely to pay toward the support of the child, in which case the mother would be the natural recipient; sometimes the payment is directed to be made to her; in other laws, to designated authorities (clerk of court, poor-law authorities) or to a guardian of the child; sometimes, in the alternative, to the mother, or if she be an improper person (or dead) to a person designated by the court (Indiana, sec. 1027); in Connecticut, to the selectmen, if the mother misapplies the money paid to her (6008); often "in such manner as the court shall direct." It seems that a continuing discretion of the court is the wisest form of legislative provision to care not only for differences between individual cases but for varying conditions in the same case.

In England under the act of 1844 (7 and 8 Vict., ch. 101) the payment was made to the mother, unless she was under special disabilities (unsound mind, under sentence). The law was, however, changed in 1914 (affiliation orders act, 1914): All payments are made to a collecting officer of the court, and he may proceed for recovery of payments. The collecting officer pays to the mother or to such other person as is named in the affiliation order the amount paid to him without any deduction, his remuneration (not to exceed 5 per cent of the amount paid through him) being paid out of public funds. The payments under the English act are made weekly.

The different State laws grant sums that vary greatly in amount. In North Carolina the judgment is for a fine of \$10 and a single pay-

ment of \$50; Arkansas gives from \$1 to \$3 a month; South Carolina, \$25 a year; Tennessee, \$40 the first year, \$30 the second, and \$20 the third; Maryland, which until 1912 allowed not exceeding \$50 per year, changed the amount to \$15 per month; Delaware allows \$5 to \$10 a month. The two most liberal States' allowances are not exceeding \$250 the first year and \$150 each of the next succeeding 10 years in South Dakota and not exceeding \$200 for the first year and not exceeding \$150 per year for the next succeeding 17 years in Utah.

That the legislature in fixing low amounts did not on the whole run counter to prevailing sentiment appears from the indications that reported cases give as to the allowances fixed by the discretion of courts and juries. The earlier New York cases show amounts from 50 to 75 cents a week, and as late as 1886 we find a mention of \$1.50 a week (40 Hun 320). In Iowa the supreme court has held \$100 the first year, with \$50 annually thereafter up to a total of \$700, not to be excessive.

Nor do the more liberal statutory amounts compare unfavorably with per capita allowances under mothers' pensions laws. It is apparent that the law of bastardy support is controlled by standards of poor relief. In any event the alimony is measured by the mother's and not by the father's position in life, and, although the laws may not express it in that way, it is in the nature of an assistance to her. Under these circumstances it is, on the face, a radical departure in the new law of Massachusetts of 1913 to require the father to support his illegitimate child as though the child were legitimate. Even so, if the mother has the custody, the support is in practice apt to be measured by her standard of living, and a more explicit statutory direction would be necessary to overcome this inevitable tendency. A general civil obligation of the father to support the illegitimate child, such as exists in California, is likely to work out in the same way.

The duration of the support is fixed perhaps more commonly in the statute than the amount. Where no limit is stated, as in Kansas, the minority of the child would be the maximum period. This is the stated period in Massachusetts, and California also speaks of the minor child. Colorado, Mississippi, and Utah set the age limit at 18. If in these States the statutes can be construed as entitling the illegitimate child to support beyond the age of self-support, they place such child in a position more favored than the legitimate child, which the father may by emancipation throw upon his own resources when he has become capable of supporting himself. In Vermont the duty extends for the period during which the child is unlikely to be able to support himself. Under the ordinary law of parent and child the absolute duty of support would hardly extend beyond the age of 16, which would accord with advanced standards of child-labor legislation. This is the age limit set by the Wisconsin bastardy

law, while Georgia and Hawaii name 14, which is also the age most commonly found in recent child-labor legislation. Lower age limits are, however, encountered in bastardy laws: Twelve years in Maryland (until 1912, 7 years); 10 years in Delaware, Florida, and Illinois; 7 years in Arkansas, and Tennessee provides for only three annual payments.

Provisions regarding custody are rare, the assumption being generally that the mother will keep the child. A declaratory law to that effect was enacted in New Jersey in 1913. In Illinois and Utah the father is expressly declared to be not entitled to the custody of the child until the child arrives at the age of 10, unless on notice to the mother and on full hearing she is found not to be a suitable person. This provision seems rather to imply that the adjudged father is entitled to the custody of the child by reason of his paternity. On principle, in view of the silence of the statutes and of the absence of any common-law right, the right of the father to the custody of the illegitimate child must be considered at least doubtful. The mother has the law of nature on her side. The matter should be set clear by explicit statutory provision, and the father's right to custody should be made to depend on legitimation.

10. ENFORCEMENT OF ORDER.

Peculiar provisions in addition to those for the enforcement of other judgments are called for by the periodicity of alimony payments and by the common irresponsibility of fathers of illegitimate children. The latter circumstance makes lien or attachment provisions, which are found in a few States, practically less valuable than methods which exercise a more personal pressure.

It is the rule to require the defendant who is adjudged to be the father of the child to give security for the payment of the support. This is done through the finding of sureties. In default of such security the defendant is committed to jail, and in several States the failure or refusal to comply with an order to pay is treated as contempt of court (Nevada, South Dakota, Utah). In many States (Illinois, Indiana, Maine, Michigan, Minnesota, Wisconsin, Wyoming) the imprisonment is clearly conceived in part as punishment, for it is only after a definite time has been served that the defendant on proof of inability is entitled to a discharge, his liability to pay being nevertheless continued (Arizona, Connecticut, Hawaii, Michigan). Inability entitles him to discharge, the period of confinement varying between 90 days and 1 year, or being left to the discretion of the court (New Hampshire, New Jersey, New York). The discharge is without prejudice to further proceedings in case of subsequent ability.

In Iowa the provision for imprisonment under bastardy laws was, at an early date, held superseded by the constitutional provision

against imprisonment for debt (*Holmes v. State*, 2 Iowa, 501, 1850), and that State relies under its present laws upon lien and attachment provisions; but in most of the States the imprisonment feature of the law has either not been questioned on constitutional grounds or has been sustained. In Indiana the constitutional protection has been held to apply only to strictly contractual debts. (*Lower v. Wallick*, 25 Ind. 68, 1865.)

Special facilities for compelling payment are furnished by laws which treat bastardy or the nonsupport of illegitimate children as a crime. Thus, in California, the convicted defendant may be employed on public works and an amount not exceeding \$1.50 a day in payment for such work be applied to the support of the child. The law of North Carolina permits the defendant to bind himself out as an apprentice, the price being paid to the county treasurer.

In Massachusetts the court may place the defendant on probation and suspend his sentence on condition of periodical payments for a term not exceeding two years. Upon violation of the terms of the order the suspended sentence may be enforced. A similar provision is found in Colorado.

In Wisconsin the nonsupport act, which applies to illegitimate children under 16, provides that the court may instead of imposing a penalty make an order for weekly payments for a period not exceeding two years to the guardian or custodian of the child or to a trustee appointed by the court, and may release the defendant upon his recognizance to comply with such order. Upon violation of the order, the suspended penalty may be enforced and any sum recovered upon the recognizance may be applied for the benefit of the child (*R. St.*, 1917, sec. 4587c).

To a similar statute (*Laws 1917, ch. 51*) West Virginia adds the provision that if a fine is imposed and not paid the parent may be required to do labor, for which a daily sum may be allowed to be applied for the benefit of the child. In Delaware (*Code 1915, secs. 3033-3043*) there may be a sentence to hard labor, with a daily allowance of 50 cents to be applied for the benefit of the child.

In Pennsylvania (by law of 1917, No. 145) the order for the payment to the mother of the expenses incurred at the birth of the child may be enforced, upon failure to give a bond, by imprisonment at hard labor, in which case a daily wage of 65 cents is to be paid to a person designated by the court, or the court may discharge the defendant upon his own recognizance in the custody of a probation officer; and (by act 1917, No. 290) in proceedings for willful failure to contribute to the support of an illegitimate child the court instead of imposing a fine may make an order for a periodical payment upon recognizance, with or without surety, and may suspend execution.

The provision for imprisonment at hard labor in default of payment of the judgment or of the giving of a bond is also found in Alabama (sec. 6377).

11. COMPROMISE AND SETTLEMENT.

If the theory of bastardy support legislation were the enforcement of an antecedent civil obligation of the father toward the mother, the right of the two to settle for the claim (subject to possible relief in case of fraud or overreaching) would logically follow. Where under the law the mother has the exclusive right to complain there is some plausible support for such a theory, although even then it may appear from other provisions that the mother is not the only party in interest.

Where poor-law authorities are authorized to institute proceedings, the theory of the purely civil obligation toward the mother is negatived, and the right to settle should on principle be denied;¹ and a settlement would then be merely an important factor in determining the equities of the mother and such discretion as court or jury may possess in fixing the terms of the judgment.

As a matter of legislative policy, even a liberal payment made to the mother in good faith may be an unwise provision from the point of view of the child, although normally the certainty and finality of such a disposition will outweigh its possible disadvantages. In any event the matter is a proper one for statutory regulation.

Only a few States recognize the right of the adult mother (making express exception for the infant mother) to settle with the father without any qualification (Indiana, Kansas, Oregon); a stated sum as the condition of a valid settlement is fixed in Utah (\$500) and in Illinois (\$400). More commonly the settlement is subject to the approval of the court or poor-law officials, or liable to be objected to by the latter. In Minnesota and Ohio the compromise payment must be coupled with a bond to indemnify the public against possible charges for relief.

12. EFFECT OF DEATH UPON THE PROCEEDINGS.

Most of the statutes contain no explicit provisions.

In Maryland, when bond has been given by the father and he thereafter dies, payment may be enforced out of his estate, with a limitation to \$500, and to one-half of a child's intestate share (sec. 10 of act). In Indiana the right of action survives, if the putative father dies either before or after the commencement of the prosecution and after the preliminary examination, against his personal representa-

¹ Nevada (sec. 765) provides that no complaint shall be settled by agreement of the mother and putative father.

tives. A similar provision confined to death after the preliminary examination is found in Kansas and Mississippi.

A number of States provide that the suit shall not abate by the death of the mother if the child be living, the interest both of the local authorities furnishing relief and of the child being as strong after the death of the mother as before, if not stronger (so, e. g., Hawaii, Indiana, Kansas, Maine, New Jersey, Ohio, Vermont, Wyoming).

As regards the death of the child, it is not uncommonly provided that it shall not abate the prosecution if the mother be living, but the court on conviction shall take the death into consideration and give judgment for such sum as it may deem just. So, after judgment, the court may make the appropriate reduction in the amount payable (so, e. g., Maine, Mississippi, Ohio, Wyoming). In Rhode Island special reference is made to the expense of lying-in, and of the support, sickness, and burial of the child. In Utah the death of the child, as well as a stillbirth, avoids a bond given. In New York likewise the prosecution is dismissed if the child is born dead.

13. THE PROBLEM OF THE ABSCONDING DEFENDANT.

In practically all foreign countries the enforcement of bastardy support is a purely domestic problem, and there is no need for legislation to attempt to deal with jurisdictional difficulties. It is otherwise in the United States. Each State is for purposes of police legislation, civil or criminal, a sovereign and independent jurisdiction, and can act only upon subjects that are within its own territorial boundaries or owe it allegiance. The process of a State court does not by its own force, without the aid of interstate comity, reach those who are not within the State or residents of the State. Extradition is confined to criminal prosecutions. The United States is the only jurisdiction the scope of which is national, and the limits of the Federal Constitution do not permit national legislation dealing adequately with bastardy support in general. The possibility of national legislation permitting, where the parties are citizens of different States; suits for bastardy support to be brought in a Federal court, and making a nation-wide judicial process available for such purpose, may be dismissed as being beyond the reach of practical policy.

While thus the States are legally and jurisdictionally distinct, there is no social or economic separation. Travel and migration are easy, and to transfer one's domicile to another State involves no serious sacrifice of habit or association, particularly in the case of young unmarried men. The problem is aggravated by the fact that many of the most important metropolitan communities are close to or upon State boundaries, so that a change of residence to another State means hardly more than a change to another section of the same city.

How, then, can legislation deal with the case of the seducer moving into another State when confronted with the prospect of having to support an illegitimate child?

The discussion of available methods is confined to three alternatives: The treatment of illegitimate paternity as a crime; the attempt to hold the defendant civilly liable though he can not be served within the State; and the transfer of the proceeding from the residence of the complainant to the residence of the defendant.

Bastardy proceedings as criminal prosecutions.

Bastardy proceedings under most laws have a quasi-criminal character; they are often conducted by magistrates and courts having criminal jurisdiction and the process which is used to bring the defendant before the court is the warrant of arrest and not a summons.

Notwithstanding this the courts have generally held the proceeding, which is provided for in most of the States, to be civil, and the trial is governed by principles of civil and not of criminal law. The fact of paternity is not in terms declared a misdemeanor, and under the usual type of law it would be impossible to make it the foundation of a demand for extradition of the alleged father.

Exceptions from this ordinary type of bastardy legislation have long been known in America, and particularly in Pennsylvania bastardy legislation has from the beginning been criminal in form, the only provision for proceeding being found in a section making fornication and bastardy a misdemeanor. In 1913 Massachusetts abandoned the type of bastardy legislation which, as in other New England States, had come down from early colonial times and had remained in substance unaltered from the beginning of independent government, and made the begetting of an illegitimate child a misdemeanor.

Where the matter is thus reduced to the terms of a criminal offense it would be logical to make the act of illicit intercourse itself a misdemeanor, as is done in Pennsylvania. Otherwise there is the curious situation that an act is not criminal, while the natural consequences of the act are criminal, and yet it would be a crime to avert the criminal consequences of the noncriminal act. It is not a quite satisfactory answer to say that the legislature allows a person under such a statute to have illicit relations at his peril, taking cognizance of the forbidden act only as it results in a specific detriment to the community. Even if it is within the legislative power to lay down such a rule, its anomalous character may be an obstacle to its adoption.

If illegitimate paternity is made a crime, the following consequences should be considered, and, as far as possible, be guarded against: The woman would be an accessory to the offense, and care

should be taken that her testimony be not thereby legally weakened; the man's privilege not to testify would become an absolute constitutional right; it would be impossible to proceed against the man by default; it would be more difficult to deal with compromise and settlement, since public offenses can not be the subject of private agreement; it would become possible to prosecute the father even against the will of a mother unwilling to disclose his name and willing to assume the burden of the child's support; the statute of limitations—which for criminal offenses is usually a brief one—would run from the time of the illicit act, or from the time of the birth of the child. In order to deal with this latter difficulty, it will be necessary to make nonsupport of the illegitimate child a distinct and continuing offense, as is done by the act of Massachusetts of 1913.

While the above-mentioned difficulties are not insuperable, they call for more elaborate and qualified legislation, and the departure from the prevailing type should be offset by compensating advantages. Such an advantage is supposed to be furnished by the possibility of procuring the extradition of the absconding defendant. But while it is true that the Federal Constitution gives the right of extradition for every crime, it is also true that there is a disinclination to extradite for misdemeanors as distinguished from felonies, and it is stated for Pennsylvania that extradition from other States on the charge of fornication and bastardy can not be procured. In the enforcement of family desertion laws the same difficulty—even if an imaginary one—was encountered, and the grade of the offense was therefore raised in some States to that of felony. The wisdom of this has been questioned, and it may be expected that legislatures will hesitate before making illegitimate paternity, which is now often not punishable at all, a felony. However, in 1917 this was done in Minnesota. Extradition would not be available for nonsupport unless the defendant had been since the birth of the child a resident of the prosecuting State.

Absconding as the gist of the offense.

A novel experiment in dealing with the problem on the basis of criminal law forms part of the comprehensive legislation on illegitimacy enacted in Minnesota in 1917. Chapter 211 of the Laws of 1917 provides that if issue is conceived of fornication, and within the period of gestation or within 60 days after the birth of a living child the father absconds from the State with intent to evade proceedings to establish his paternity of such child, he is guilty of a felony and shall be punished by imprisonment in the State prison for not more than two years.

Should this form of legislation (changing, perhaps, the grade from felony to misdemeanor) be recommended for general adoption?

If the object of this legislation is to facilitate extradition, does the method chosen answer the purpose? Absconding from the State is the gist of the offense. When and where is the offense complete? Not until the person sets his foot beyond the boundary of the State and therefore is beyond its jurisdiction. Criminal legislation ordinarily stops at the boundary of the State. In order to be extradited, moreover, the individual must be a fugitive from justice. That is to say, he must have been a criminal before he left the State; if his offense consists in leaving the State, he can not be a fugitive when he leaves it. This is not a mere technicality, for it is unprecedented in our law to make it a crime to leave the State. In foreign countries there is the analogy of the offense of leaving the State to escape military service; but while a person who does this is treated as an offender, it has never been contended that he is a fugitive from justice, and it would be impossible to found a claim to extradition on the act of leaving the country, though it might be based upon the act of avoiding military service.

Would the matter be mended by making it an offense to abscond from the county of residence? Theoretically it might; but in many States little would be gained, for the great metropolitan communities of New York, Philadelphia, Cincinnati, Chicago, St. Louis, Kansas City, and others lie in border counties, and the individual might abscond without bringing himself within the law.

Prosecution for abandonment and nonsupport.

It has been observed before that an abandonment law which speaks of a parent and his child or minor child does not apply to the father with reference to an illegitimate child. Indeed the spirit and purpose of abandonment laws appear more adapted to the failure to perform the ordinary obligation incidental to the *de facto* family group.

However, a number of States expressly include the illegitimate child in the protection of the abandonment acts (California, Colorado, Connecticut, Delaware, Massachusetts, Nebraska, New Hampshire, Ohio, West Virginia, Wisconsin). Pennsylvania (Laws 1917, No. 290) makes willful noncontribution to the support of an illegitimate child a misdemeanor. There must be considerable difficulty in applying either the term "abandonment" or the term "willful failure to support" to an illegitimate father who has not acknowledged the child before the paternity has been established by judgment, or even after judgment where the payment of a definite sum to the mother constitutes the entire duty of the father, and the statute fails to attach to illegitimate paternity or to the judgment establishing it a general duty of support. In Montana and Oklahoma such duty of support is expressly confined to the parent entitled to the custody of

the child. The duty to support the illegitimate child is predicated in general terms in Wisconsin, West Virginia, and Delaware and particularly by the law of Minnesota of 1917; in other States it follows from the penalization of nonsupport (New Hampshire, Colorado). It must be questioned whether it is proper to cover in the same context and by exactly the same provision two such entirely different forms of delinquency as failure of duty with regard to a legitimate child, and with regard to an illegitimate child that has never been placed under the direct care of the father; as, e. g., under the law of California which provides (Penal Code secs. 270-270c) that it shall be a penal offense for a parent of a legitimate or illegitimate minor child to omit willfully, without legal excuse, to furnish necessary food, clothing, shelter, or medical attendance.

There can be no objection to placing upon the person who has been adjudged to be the father of the child a general duty of support and then making nonsupport on the part of the adjudged father a penal offense. This is the law of Minnesota (1917).

Civil proceedings against persons who can not be served within the State.

There is at present no American bastardy statute which provides for reaching a defendant who is outside of the State otherwise than by the attachment of property which he may happen to own in the State.

In the absence of specific statutory provision a defendant can not be served by publication (*Moyer v. Bucks*, 2 Ind. App., 591; *Beckett v. State*, 4 Ind. App., 136).

It may be conceded as a matter of theory that a person who has left the State without ceasing to be a legal resident of the State is still amenable to its jurisdiction and that judgment can be rendered against him upon service of process by publication and actual notice given to him outside of the State; but the legislative tendency is very strong against a personal judgment based upon such process in a common-law action.

The tendency would be rather to provide for an equitable proceeding, in which class of actions service of process by publication is more commonly resorted to, and therefore to make the proceeding primarily one to establish a fact (the fact of paternity), and secondarily to establish the existence of such obligations as the fact carries with it.

In Illinois a bill was introduced in the legislature of 1917 embodying this theory.¹ It provided that a bill of complaint in chancery may be filed for the purpose of establishing who is the father of the child. The defendant, if not in the State, may be served personally outside of the State and by publication, and if personally served without the State may be proceeded against by default. The judgment may

¹ This bill did not become a law.

then establish that the defendant is the father of the child, and that as to such father the child is to all legal intents and purposes his child. The court may in addition decree reasonable support and maintenance. The decree is to be conclusive evidence of the facts found in all subsequent proceedings, including criminal proceedings for nonsupport and like offenses.

This proposed law purports to allow proceedings against persons residing outside of the State. It will be noted that the decree makes the child to all legal intents and purposes the child of the father "as to such father." Apart from the practical difficulties which such qualified legitimation would encounter in legislative bodies the State would have power only to fix the status of the resident child, but not that of the nonresident father; in other words, the imposition of the obligation to support would be without jurisdictional foundation. If the child were to be treated as illegitimate there would be the further difficulty that the "status" of illegitimacy carries at common law no rights whatever and that therefore the proceeding would characterize itself plainly as one to enforce a personal obligation of maintenance. Against nonresidents of the State the proposed law of Illinois would therefore fail of its purpose. It might be theoretically available against persons who while outside of the State continue to be residents of Illinois; but here the question of fact presents a difficulty. For a change of residence from State to State can be accomplished at the moment of migration, if there is an intent to that effect, and it would not be easy to disprove such intent against the oath of the defendant desiring to prove himself a nonresident.

Civil proceedings in the jurisdiction where the defendant resides.

The constitutional difficulty of establishing jurisdiction over a defendant outside of the State disappears if the proceedings for support are brought in the State to which he has gone. It would not be possible to permit a criminal prosecution in a State other than the one where the offense has been committed; and where the alleged father goes to another State, he does not commit an offense against the law of that State by not supporting a child which is outside the State. An obligation may, however, be made civilly enforceable although it has been contracted outside of the jurisdiction, and the opening of the State courts to nonresident mothers for the institution of civil bastardy proceedings is a matter of legislative discretion. A State can not in this way afford relief to mothers left in its own jurisdiction by absconding fathers, but only to mothers of other States where the father is found in its own jurisdiction; but in a comprehensive scheme of uniform bastardy legislation the benefit of reciprocity may furnish a sufficient inducement and justification for legislation which, considered by itself, has a somewhat altruistic

character. Even without legislation, as a matter of comity, a State permits nonresidents to sue residents upon any transitory cause of action recognized by the common law.

Ordinarily it will, of course, be more desirable for the mother to prosecute in her own domicile, but where the alleged father has absconded the difficulty of reaching him and enforcing a claim against him, either through equitable proceedings against an absent party or through criminal prosecution involving extradition, may easily outweigh the inconvenience of suing in another State and the possibility of this alternative would certainly be an advantage.

Some States even now allow a woman to sue where the defendant resides or may be found. Even though these provisions may have been intended to enure mainly to the benefit of a woman residing in another district of the same State, their wording makes them applicable in favor of a nonresident woman. Many States, however, recognize only the jurisdiction of the woman's residence or of the place of the birth of the child.

It would be a simple and effective reform to make the jurisdiction of the defendant's residence available by the legislation of every State.

Provision for both criminal and civil proceedings.

California permits a civil suit to enforce support and also a criminal prosecution for nonsupport. This shows the possibility of cumulative remedies. The prevailing type of legislation offers the advantage that the same proceeding may be used to establish paternity and to compel support by the combined resources of civil and criminal procedure. It would therefore be perhaps unwise to discard the present form of bastardy support legislation altogether. But in particular cases it may be desirable to sue to establish paternity or to enforce support by a civil action, or—after paternity has been established—to punish nonsupport and use the efficacious methods of suspended sentence and probation or of compulsory and compensated labor. It ought not to be impossible to offer all these remedies to be used either cumulatively or in the alternative, as circumstances may dictate. This is no more than what is possible in the case of many other grievances which create legal and equitable causes of action and at the same time subject the wrongdoer to criminal prosecution.

POSSIBLE CHANGES IN THE LAW IN FAVOR OF THE ILLEGITIMATE CHILD.

1. THE EXTENT OF THE PROVISION IN FAVOR OF THE CHILD.

This is plainly inadequate in most of the laws. If the payments are not too low, the period of support is certainly in most of the States too brief. Legislation should consider child-labor policies and their effects; 14 years should be regarded as the lowest age at which the

child can be expected to begin earning money, and 16 years should be the normal age to which the duty of support should extend. If extended beyond that age in cases other than incapacity of some sort, the illegitimate child would occupy a more favored position than the lawful child, who can be thrown on his own resources when capable of self-support.

As regards amounts, the upper limits are, in nearly all States in which such limits are set, too low. It is true that where the allowance is entirely within the discretion of court or jury, the amounts awarded do not seem to exceed these limits. This would seem to indicate that the statutory amounts are perhaps not grossly at variance with prevailing sentiment. There appears to be no disposition to extend the generosity commonly shown to the woman in breach of promise suits to the child in bastardy proceedings. The measure of damages in case of breach of promise to marry is not controlled by any statute, but is entirely a matter of judicial practice, and it would be a new departure in legislative policy to force upon courts or juries a greater liberality in awarding support allowances than they are in the habit of granting at present. If such a policy were adopted it would be necessary to determine upon some standard. In breach of promise suits the wealth of the defendant is commonly taken as furnishing such standard. Applied to support proceedings, this would mean that the standard of the child's maintenance would be governed by the father's position in life. The German Civil Code makes the mother's position in life controlling (sec. 1708). Considering that the child grows up with the mother and amidst her social surroundings, an allowance much exceeding the needs of a corresponding support would be incongruous and might produce untoward results. The award of a lump sum to be placed in trust for the child, applying so much of the income as is needful to the child's support, would probably be a wiser provision. Perhaps the best that can be done at present is to remove the low maximum limits, and leave the extent of support to judicial discretion to be guided by the circumstances of each case.

Particular stress should be laid upon the care of the child at the time of its birth and during its early infancy, which are the most critical stages from the point of view of conservation of human life. The laws which require larger payments for the first year than for subsequent years recognize this. The like purpose would be served by permitting at the first hearing some provision to be made to cover expenses of confinement, but in advance of the determination of paternity by regular trial, nothing can be demanded beyond security, and a provision to that effect is found in a number of States.

In this connection should also be noted the legislation for the control and supervision of institutions which are apt to have the first

care of illegitimate children, such as maternity hospitals, children's homes, etc. In Massachusetts persons receiving illegitimate children for board are required to notify the State board of charities, which may exercise a general custody for the benefit of the child (ch. 83, secs. 17, 18).

Massachusetts has also a provision (ch. 83, sec. 13) whereby the mother of an illegitimate child under 2 years of age may, with the consent of the State board of charities, give up the infant to the board for adoption; and the board may in its discretion receive the infant. The surrender operates as a consent to any adoption subsequently approved by the board.

2. PROVISIONS FOR GUARDIANSHIP AND PERMANENT CARE.

Any comprehensive scheme of reform should consider the creation of an official guardianship, in order to do full justice to the varying and developing circumstances of each case, and to standardize the legal duties of fathers toward the illegitimate offspring.

The legislation of Minnesota of 1917 marks an important step in this direction. Chapter 194 is entitled: An act to give the State board of control general duties for the protection of defective, illegitimate, dependent, neglected, and delinquent children, with authority to act as guardian of children; and to provide for child-welfare boards in the several counties of the State to aid in the performance of such duties. The powers of legal guardianship extend to cases of children committed to the board or to institutions under its management by courts of competent jurisdiction. Under the revised juvenile court act of 1917 (ch. 397) the term "dependent child" includes every illegitimate child, and every such child is therefore subject to commitment to the State board. The same act, however, also provides that the child shall not be taken from its parents without their consent, unless the separation shall be found needful to prevent serious detriment to the welfare of the child. Where the mother is faithful and only the father is delinquent in his duty the power would therefore seem normally inoperative. Section 2, which does not speak of legal guardianship, is more valuable to the child. It charges the State board of control with a general duty to take care that the interests of an illegitimate child are safeguarded and that there is secured to him the nearest possible approximation to the care, support, and education that he would be entitled to if born of lawful marriage. For this purpose the board is given power to initiate legal and other action, and to make such provision as the interests of the child from time to time require. These phrases, though liberally construed, fall short of the powers of legal guardianship; but even under a conservative construction, they permit the exercise of active

and continuing supervision and advice such as no other American legislation provides for.

Much will depend upon the administrative organization placed at the disposal of the board. It may appoint and fix the salaries of a chief executive officer and such assistants as shall be deemed necessary to carry out the purposes of the act. For a reasonably adequate solution of the problem of the illegitimate child, local as well as State organs are indispensable, and these are provided for in sections 4 and 5. Upon the request of a county board, the State board may appoint a child-welfare board for the county. This board consists of three members appointed by the State board (two women; in the larger cities five members), and a member of the county board and the county superintendent of schools *ex officio*; the three appointed members hold at the pleasure of the State board, and the State board determines the duties of the county child-welfare board. The county child-welfare board appoints a secretary and executive assistants; and, with the approval of the county board, fixes their salaries. Where there is no child-welfare board the judge of the juvenile court may appoint a local agent to cooperate with the State board, whose salary is fixed by the judge, with the approval of the county board. Under these provisions, while the local organization is not absolutely compulsory, there is at least a reasonable assurance that there will be a local agency wherever needed.

The State board is further aided by a provision in another law (1917, ch. 212) to the effect that the officer in charge or licensee of any hospital in which a pregnant woman or woman with a newborn child, or such child, is received for care shall use due diligence to ascertain whether the child is legitimate, and, if there is reason to believe that the child is or will be illegitimate, that he shall make report to the State board of control (sec. 8).

It is to legislation of this type that we must look for the most effectual enforcement of illegitimate support legislation.

3. POSSIBLE IMPROVEMENTS RELATING TO THE STATUS OF THE CHILD.

A survey of the entire legislation concerning the status of the illegitimate child (aside from the ordinary support proceedings) suggests the desirability of providing in all the States for—

1. A declaration that the issue of null marriages is legitimate.
2. A proceeding to establish legitimacy or illegitimacy.
3. Legitimation by subsequent marriage of the father and mother, where the father acknowledges the child.
4. The possibility of voluntary legitimation after the death of the mother, or where marriage or adoption is impossible.
5. The possibility of adoption by the father.

6. A declaration that the relation of mother and child is the same whether the child is legitimate or illegitimate.

Can the law safely go further and give the child the status of a legitimate child with reference to the father?

It has been seen that this has been attempted in North Dakota. There an act of 1917 declares every child to be the legitimate child of the natural parents, entitled to support and education, and to inherit from the natural parents and their kindred, and merely withholds the right to dwell with the father's family if the father is married to some other woman. So it has been proposed in Illinois to give the decree in bastardy proceedings the effect of making the child "to all legal intents and purposes"¹ the child of the father as far as the father is concerned.

The practicability of such legitimation of the child by the fiat of the law should be carefully scrutinized. The normal legal relation between parent and child involves the social foundation of a lawful or *de facto* marriage; without this, it is in fact a different relation—a fact which no dictate of legislation can alter. It is true that where, upon a divorce, the child is awarded to the mother it has the status of a legitimate child of the father without the corresponding social habitat, but there is the essential difference that in this case the father who is deprived of the custody normally still retains his parental affection and interest, while in the case of the illegitimate child the father refuses to admit the child into his household from the very beginning of its life.

If the legislator declares the child born out of wedlock the lawful child of the father, he should have a clear realization of the implications of such a provision and consider particularly what follows with regard to custody, rights of inheritance, and name.²

It has not been suggested that legislation should require the father to assume the custody of the child. The infant of tender years is naturally left to the mother in its own interest, and the father would frequently be in no position to give it proper care. Illinois gives to the father a right to the custody of the illegitimate child when the same has reached the age of 10; and before, if the mother is unfit. A requirement that the father assume the custody of the child approaching the age of adolescence would create a legal obligation novel and without precedent; for the father may now give up the custody of his lawful child, so long as he provides for its maintenance and support. A duty of custody is unknown to our law, and if it is impracticable

¹ The proposed bill did not become a law.

² Even as regards maintenance the illegitimate child has, in some respects and in the absence of nonsupport or abandonment laws, more effectual remedies than the legitimate child. The law of Tennessee therefore finds it necessary to provide (s. 7353): "The judgment of the court against the defendant is not satisfied, nor the defendant and his sureties exonerated from liability, by the defendant subsequently legitimating the child according to law." Recent legislation in many States has, however, altered the law to the advantage of the legitimate child.

to create it with regard to the lawful child, the difficulty of establishing it with regard to the illegitimate child may be well considered insuperable.

Even the unqualified right under the law of Illinois to assume the custody of the illegitimate child of 10 is a questionable provision; the right of custody should be conditioned upon legitimation, and legislative provision should be made for legitimation where, as in Illinois, it is now lacking. Where the father has a lawful wife and legitimation is permitted without her consent, still she must have a right to object to the child's being taken by the father into the common household.

Legitimation by decree would involve a right of intestate succession. If that be regarded as a dictate of equity, it should still be borne in mind that the right can be nullified by testamentary disposition. That right the father has with regard to his lawful child, and legislatures will hesitate to give the illegitimate child a preferred status. If a case could be made in favor of such preference it would imply the introduction of the principle of forced inheritance into our law, with a mass of complicated adjustments that would have to be worked out with great care. There is no serious thought of such a radical step; without it, the inheritance phase of statutory legitimation is a precarious gift.

It remains to consider the question of the name. Wisconsin in 1915 amended the vital statistics law by providing that where in bastardy proceedings the paternity of a child is determined, the child shall be given in the birth report the name of the father. A birth report is required to be made within five days from the birth, while bastardy trials do not take place until after the birth; the paternity will therefore ordinarily not be determined until after the report of the birth has become due. It is also implied rather than expressed that the father's name shall be the legal name of the child.

It would, however, not be difficult to frame an adequate provision bestowing the name of the father upon the illegitimate child. Should this be a privilege of the child, or a requirement? And if the former, should the privilege be exercisable by the mother for the child once for all, or should the child be allowed to assume the name of the father on arriving at years of discretion?

A legal requirement that the child bear the name of the father should be considered with a view to the possible consequence that it might advertise the child's illegitimacy, in contravention to the policy of the law that the fact of illegitimacy shall not be needlessly disclosed. The child naturally lives with the mother, who has no right to the father's name; a different name of her child would naturally raise a question which she might be desirous of avoiding.

The assumption of the name is also an empty privilege, if unaccompanied by more substantial rights. Its practical effect may be expected to be that the child will relinquish the use of the name for a consideration; and the legislator ought to bear this possible consequence in mind.

It thus appears that the practical consequences of assimilating the status of the illegitimate child to that of a legitimate child are limited. And this is what may be expected of an attempt to alter by legislation social conditions and concepts.

Everything should undoubtedly be done that is within the legislative power, to alleviate the hardship and stigma of illegitimacy, but the limits of practical legislative power should be considered. Where legislation can affect social sentiment it should do so; and even such a matter as terminology should not be neglected. The term bastardy should disappear from our law; filiation or affiliation proceedings would as well express the usual proceedings for the support of illegitimate children, and support orders are at present designated as affiliation or filiation orders in England, New York, New Jersey, and Delaware. And the term "natural child" would be preferable to either illegitimate or bastard.

It should also be seriously considered whether it is not possible to keep any reference to illegitimate birth from public records other than those of proceedings in which legitimate or illegitimate paternity is directly involved.

State.	Process.	Preliminary proceedings.	Trial.	Evidence. Compulsion to disclose name of father. Accusation in travell.	Judgment. How and to whom paid. Period of payment. Amount.	Period of support.	Provisions in judgment as to name and status.	Enforcement. Security. Lien.	Compromise.	Effect of death of any of parties. Mar-riage of parents.	State.
Alabama.	Warrant.	Hearing before justice. The funds re-quired must be paid to give bond to appear in circuit court.	Trial in circuit court.	Both complainant and accused are competent witnesses.	If judgment against accused, court may order payment not exceeding \$50 per year to the judge of probate court. This money is for the support and education of the child.	10 years.		Accused must give bond with surety in sum of \$100 to secure payment of the judgment. If bond not given, accused sentenced to hard labor for 1 year.		Death of child renders bond and vacation judgment. Marriage of parents has same effect.	ALABAMA.
Alaska.											ALASKA.
Arizona.	Warrant may be executed anywhere in State.	Hearing before justice. If accused pays or secures to be paid to give bond, such amount to the extent approved by superior court, and payment of prosecution and expense incurred by county in witness of mother and given bond to indemnify county against expenses of child, he is discharged. If accused does not do these things and there is probable cause to believe him guilty, justice requires bond that he will appear before superior court; if he gives no bond, he is sent to jail.	Trial in superior court.	If accused found guilty, he must give money order payment not exceeding child, costs of prosecution, and all expenses of trial and care and support of mother. Maximum amount allowed for support of child, \$600.	Accused, if found guilty, must give bond to secure carrying out order of court. If fails to give such he is sent to jail. Upon conviction, accused can not pay, he may apply for discharge by giving proper order. If upon hearing it appears that he cannot pay, he is discharged. If later he becomes able, he may be compelled to make payment.			Board of supervisors, either before or after judgment, may make equitable compromise and thereupon discharge accused from all liability for child's support.			ARIZONA.
Arkansas.	Warrant.		Trial held at least 34 hours after arrest of accused. Accused may demand jury.	Mother competent witness. If mother dead at time of trial her deposition made in travelling proved to be her dying declaration she is admissible. Judge of county court may compel father to disclose name of father, on her refusal she must give bond for support of child or go to jail.	If judgment against accused, he is ordered to pay for confinement expense of mother from \$5 to \$15 and for costs of case. If claimed by the mother, accused shall be ordered to pay from \$1 to \$5 per month.	7 years.		Confinement expense and costs must be paid at once or judge may commit. Bond shall be 5 years to secure payment of monthly dues.		After death of accused judgment may be revived against executor or administrator.	ARKANSAS.
California.								The court may enforce order for support by requiring reasonable security. The convicted defendant may be employed on public works and \$1.50 in payment for such work may be applied in the support of child.			CALIFORNIA.
Colorado.	Warrant.	Preliminary hearing and examination before justice in presence of accused. If probable cause found, accused must give bond to appear at next term of district court.	Trial by jury.	Both parties are competent witnesses.	If verdict is for accused, he is discharged, and the woman pays the costs. If verdict against accused, such damages are named as jury deems proper for support of the child. "Sum may be paid annually or otherwise."	Not more than 18 years.		Execution may be issued annually if the sum is to be paid annually.			COLORADO.
Connecticut.	Warrant.	Warrant is timed by justice or commissioner of superior court. If mother furnishes certificate of reputable physician that she is pregnant with or delivered of bastard, if court finds no probable cause for binding defendant over, complainant may appeal. Court shall then bind defendant over to common pleas or superior court as if probable cause had been found.	Trial by jury on request of either party. If mother fails to carry on proceedings after complaint, town may do so.	If after complaint mother continues constant in accusation, it shall be admissible. The good character of the accused is admissible as to her character is rebuttal.	If judgment is against accused, he shall be charged, together with the mother, with the maintenance of the child and for half the costs of commitment. The amount to be paid in weekly installments in in the discretion of the judge. If trial finds no probable cause, it shall be a bar to future action.		Accused must give security binding himself to pay the judgment. On failure to do so he is imprisoned for six months before he can be released as a poor debtor. After release he continues liable.	Sediment can not be made without the consent of the town unless it be when it has brought the proceedings.			CONNECTICUT.
Delaware.	Warrant.		Justice has complete jurisdiction to try the case, but from his decision an appeal lies on behalf of the accused to the court of general sessions. In take court trial is by jury.	Both parties are competent witnesses. If the mother is dead at the time of hearing, her deposition in travel preserved in a dying declaration is admissible. The mother's deposition is admissible where she is unable to attend.	If judgment is against accused, he shall be ordered to pay \$10 for confinement expenses, \$10 for outstanding physicians, and not less than \$5 nor more than \$25 per month to mother or custodian of the child. Once are paid by the deflated party.	15 years.		Accused must give performance in sum of \$1,000 for performance of judgment.			DELAWARE.
District of Columbia.	Warrant.	Preliminary proceedings before the judge of the juvenile court, including examination of the accused.	Trial even in absence.		Amount of judgment is in the discretion of the court.	14 years.		Judgment can be enforced by imprisonment. Accused is imprisoned for six months before imprisonment is imposed.		If child dies and amounts due on bond be paid or amount due up to date of child's death be paid, person subjected to be father of child and his sureties are discharged.	DISTRICT OF COLUMBIA.
Florida.	Warrant.	Preliminary hearing before the justice of the peace. If probable cause is found over with security to appear for trial in the district court.	Trial by jury.		If judgment is against accused, he shall be ordered to pay expenses of confinement and not exceeding \$50 per year for the support, maintenance, and education of the child.	10 years.		Must give bond to the prosecutor. Execution may issue on this bond as often as money becomes due under the judgment. On failure to comply with the judgment, imprisonment for term specified by court for not longer than one year.		Death of the child makes the bond void. Subsequent marriage of the parents has similar effect.	FLORIDA.
Georgia.	Warrant.	Justice hears affidavits and testimony of both parties and may examine or discharge either or both. He may require the parties to furnish security for support and education of child, also expense of mother's confinement. Upon failure to give such security the justice binds accused over under bond to appear before superior or county court.	See preceding column.	Mother must give security of \$750 for support of child or discover on oath the father of the child.	See under heading, "Preliminary proceedings."	14 years.		If the father does not give security, he may be imprisoned. Failure to give the security is a misdemeanor, but any fine collected thereon goes toward the maintenance of the child. The bond taken by the justice is sent to the treasury of the county where the mother resides. When any child becomes chargeable to be given by the ordinary gets judgment for the full amount of the bond.			GEORGIA.
Hawaii.	Warrant.	Justice examines into the character and conduct of the mother and child, and may order the mother to be committed to the county work house, and if deemed necessary, the applicant being examined under oath.	On demand of accused trial is by jury otherwise not. Trial may proceed in absence of accused though bond is forfeited.	Mother shall be admitted as witness and may be compelled to testify. For accusation in time of travel is admissible at the trial as corroborative testimony.	If found against accused, he shall be ordered to pay in such installments as the court may direct his financial ability, for the maintenance of the child.	14 years.		If accused fails to pay or to execute bond, he shall be imprisoned; he may be discharged for inability.	The mother can not compromise unless by consent of the court and authorized intervention of the justice bond is given to indemnify the parent, guardian, etc., and the city, county, and territory from all charges, past or future, for support of child.	If after complaint has been made the mother dies or refuses to prosecute, anyone entitled to make the complaint may prosecute.	HAWAII.
Idaho.											IDAHO.

NOTE 5. CONCEALMENT OF BIRTH.—Concealment of illegitimate's birth and death, crime.
NOTE 6. INFANT.—Law applies to illegitimate relations.

NOTE 7. REFERENCE.—Illegitimate taken residence of mother.
NOTE 8. SLAVE MARRIAGE.—Marriage celebrated in colored persons prior to emancipation, recognized as marriage, and issue, legitimate.

[illegible]

State.	Presumption of legitimacy	Void marriage and divorce.	Legitimacy by marriage of mother and father.	Miscellaneous status provisions.	Child and mother.	Child and father.	Jurisdiction. Civil or criminal.	Courts and locality of jurisdiction.	Who may make complaint	Time of complaint and trial. Limitation.	Pro.
MISSISSIPPI		Children of marriage void because of previous marriage, illegitimate.	Subsequent marriage of parents with acknowledged parent, legitimates illegitimate child.	There is no birth registration. Presence of blood is verified by statute applied in the case of mother of illegitimate child in case of irregular birth of father and in favor of illegitimate child in case of wrongful death of mother.	Children born to mother and her husband unless there be no certificate birth of the same degree. As to inheritance from illegitimate, no text of law.	Subsequent marriage of parents and acknowledgment by father renders illegitimate child capable of inheriting as if born to legitimate husband. Father has no jurisdiction of petition by person to make such husband be declared born to him, void and court may decree birth to be legal or legitimate.		Justice court for preliminary; circuit court of county for trial. Complaint proper either where mother or father resides or where child is born.	Any single woman and where child is age to be sworn in, if married, supervision. If mother dies before coming out it may be brought by some of husband before he reaches a year.	Complaint may be before or after birth, until after birth. If married, supervision. If mother dies before coming out it may be brought by some of husband before he reaches a year.	Warrant.
MISSOURI		Issue of voided marriage legitimate divorce law does not affect legitimacy of children of marriage.	Subsequent marriage of parents and recognition by father legitimates; upon all marriages, parents may give rise of such children and offer of marriage them with certificate of legitimation by local justice.	See note 3. See note 4. Abandonment statute applies to child legitimated by local justice.	Illegitimate child inherits from mother, also through father and receives inheritance from her. Mother is natural guardian of illegitimate child, entitled to the custody and to the extent of their mutual support.	Subsequent marriage of parents and recognition by father legitimates.		Justices court for preliminary; circuit court of county for trial.			
MONTANA	All children born in wedlock presumed legitimate; children of women who have been married, born within 12 months after dissolution of marriage, presumed legitimate; if the wife is proved to be adulterous, wife, children suspected of adultery, husband presumed legitimate; presumption of legitimacy may be disproved only by husband or wife or their descendants.	Issue of all marriages null and void, legitimate. If divorce granted for adultery or husband, legitimacy of children born before action begun, legitimate. If divorce is for adultery or husband, legitimacy of children born after action begun, illegitimate. Legitimacy of other children decided by evidence of case.	Subsequent marriage of parents legitimates.	See note 1. See note 2. See note 3. See note 4. Abandonment statute applies to child legitimated by local justice.	Mother of illegitimate child is entitled to its custody, and receives inheritance from her. Mother is natural guardian of illegitimate child, entitled to the custody and to the extent of their mutual support.	Father legitimates illegitimate child by acknowledgment by father or receiving it into his family; if father has no acknowledgment by father, the child is born to him from his father.		Justice court for preliminary; circuit court of county for trial.	Any person pregnant with or delivered of bastard.	Proceedings may be started before or after birth.	Warrant or action.
NEBRASKA	All children born before suit is commenced for divorce against adultery of wife, presumed legitimate.	Issue of marriages void against of adultery, immorality, incest, and void because of previous marriage, but this contracted in good faith are legitimate; children born before action begun, legitimate; children born after action begun, illegitimate. Divorce for adultery of wife does not affect legitimacy of children of marriage, but illegitimacy in marriage, it is decided on the ground of the child.	Subsequent marriage of parents, acknowledgment by father and having sole legal legitimation illegitimate. All of these must concur.	See note 1. See note 2. See note 3. See note 4. Abandonment statute applies to child legitimated by local justice.	Illegitimate child is considered heir of mother but does not represent mother or father in matter of inheritance; mother, before the death of the child the father; marry, have children, and father inherits from child. If illegitimate child dies intestate, without lawful issue, he reverts through mother to her father, and in case of her death, to her heirs at law.	Illegitimate child is heir of father if father acknowledges him in writing in presence of witnesses, or if father has no witnesses, then father or mother in matter of inheritance; child before his death parents marry, have other children, and father inherits from child. If illegitimate child dies intestate, without lawful issue, he reverts through mother to her father, and in case of her death, to her heirs at law.		Justice court for preliminary; circuit court of county for trial.	Any unmarried woman pregnant with or delivered of bastard. County commissioners may make complaint when security is not given to indemnify county and the mother does not consent.	Complaint may be before or after birth; trial only after birth.	Warrant.
NEVADA		Children of all voided marriages are legitimate.	Subsequent marriage of parents legitimates.	See note 1. See note 2. See note 3. See note 4. Abandonment statute applies to child legitimated by local justice.	Illegitimate child is always heir of mother. Property of illegitimate child not acknowledged (child can inherit, but passes to his mother, and in case of her death to her heirs at law). Father has custody of the illegitimate child.	Father by public acknowledgment illegitimate child to wife, or receiving it into his family, he is considered, if he is married, or otherwise treating it as legitimate, as the child of his mother, the mother's support by father shall be in writing signed in presence of one credible witness, and acknowledged in her of father.		Justice court for preliminary; circuit court of county for trial.	Where best interest is committed or where mother or father is absent, it may be preliminary, upon oath of county for trial, or where father resides, if person charged in writing signed in presence of one credible witness, and acknowledged in her of father.	Complaint may be before or after birth; trial only after birth.	Warrant.
NEW HAMPSHIRE		Children of legitimate marriages legitimate. Issue of divorce on adultery or husband is void unless it is so expressed in the decree.	Subsequent marriage of parents legitimates illegitimate child.	See note 1. See note 2. See note 3. See note 4. Abandonment statute applies to child legitimated by local justice.	Illegitimate child inherits from mother and through her, but not through her inheritance to her. When mother of illegitimate child dies, legitimacy and inheritance of child pass to father. Legitimacy by acknowledgment of parents, illegitimate to inherit as if born legitimate.	Subsequent marriage of parents causes illegitimate child to inherit as if born legitimate.		Justice court for preliminary; circuit court of county for trial.	Any woman pregnant with or delivered of bastard, or if the mother is absent, it may be preliminary, upon oath of county for trial, or where father resides, if person charged in writing signed in presence of one credible witness, and acknowledged in her of father.	Complaint may be before or after birth; trial only after birth.	Warrant.
NEW JERSEY		Issue of marriage annulled because of adultery, divorce on adultery or husband is void unless it is so expressed in the decree.	Subsequent marriage of parents and recognition of child legitimates illegitimate child.	See note 1. See note 2. See note 3. See note 4. Abandonment statute applies to child legitimated by local justice.	Mother of illegitimate child has exclusive right to its custody and control; if she dies, child may be committed to the care of father. If father of illegitimate child dies and leaves no lawful issue, support of child passes to his mother, and in case of her death, to her heirs at law. If mother has no heirs at law, but has illegitimate children, property goes to them. If parents of illegitimate child marry and child is then legitimated, and later surviving, spouse dies, property goes to illegitimate child.	Subsequent marriage of parents and recognition of child legitimates. The proceeding child to legitimated illegitimate child, and the mother and father are bound to support the child as if born legitimate.		Justice court for preliminary; circuit court of county for trial.	At domicile of mother or where she may be. Any committing officer jurisdiction.	Complaint may be before or after birth; trial only after birth.	Warrant.
NEW MEXICO		Issue of all void marriages is legitimate.	Subsequent marriage of parents legitimates illegitimate child.	See note 1. See note 2. See note 3. See note 4. Abandonment statute applies to child legitimated by local justice.	Illegitimate child inherits from mother and through her, but not through her inheritance to her. When mother of illegitimate child dies, legitimacy and inheritance of child pass to father. Legitimacy by acknowledgment of parents, illegitimate to inherit as if born legitimate.	Subsequent marriage of parents and recognition of child legitimates. The proceeding child to legitimated illegitimate child, and the mother and father are bound to support the child as if born legitimate.		Justice court for preliminary; circuit court of county for trial.	At domicile of mother or where she may be. Any committing officer jurisdiction.	Complaint may be before or after birth; trial only after birth.	Warrant.
NEW YORK		Issue of all void marriages is legitimate.	Subsequent marriage of parents legitimates illegitimate child.	See note 1. See note 2. See note 3. See note 4. Abandonment statute applies to child legitimated by local justice.	Illegitimate child inherits from mother and through her, but not through her inheritance to her. When mother of illegitimate child dies, legitimacy and inheritance of child pass to father. Legitimacy by acknowledgment of parents, illegitimate to inherit as if born legitimate.	Subsequent marriage of parents and recognition of child legitimates. The proceeding child to legitimated illegitimate child, and the mother and father are bound to support the child as if born legitimate.		Justice court for preliminary; circuit court of county for trial.	At domicile of mother or where she may be. Any committing officer jurisdiction.	Complaint may be before or after birth; trial only after birth.	Warrant.
NORTH CAROLINA		No judgment of divorce renders child illegitimate; children of women who have been married, born within 12 months after dissolution of marriage, presumed legitimate; if the wife is proved to be adulterous, wife, children suspected of adultery, husband presumed legitimate; presumption of legitimacy may be disproved only by husband or wife or their descendants.	Subsequent marriage of parents legitimates illegitimate child.	See note 1. See note 2. See note 3. See note 4. Abandonment statute applies to child legitimated by local justice.	Illegitimate child inherits from mother and through her, but not through her inheritance to her. When mother of illegitimate child dies, legitimacy and inheritance of child pass to father. Legitimacy by acknowledgment of parents, illegitimate to inherit as if born legitimate.	Subsequent marriage of parents and recognition of child legitimates. The proceeding child to legitimated illegitimate child, and the mother and father are bound to support the child as if born legitimate.		Justice court for preliminary; circuit court of county for trial.	At domicile of mother or where she may be. Any committing officer jurisdiction.	Complaint may be before or after birth; trial only after birth.	Warrant.

gitimacy Laws.—Continued.

Process.	Preliminary proceedings.	Trial.	Evidence. Compulsion to disclose name of father. Accusation in travel.	Judgment. How and to whom paid. Period of payment. Amount.	Period of support.	Provisions in judgment as to name and status.	Enforcement. Security. Lien.	Compromise.	Effect of death of any parties. Marriage of persons.	State.
Warrant.	Justice has a preliminary hearing and if he decides that there is probable cause, then accused is bound over for trial. If he decides for accused, the mother may appeal to circuit court. Person other than parties, witnesses, and officers may be excluded from the hearing.	Trial before jury.	If mother is dead, her testimony before justice is read at the trial and her statements during travel, if they are admissible, are admissible.	If finding is against accused, jury may assess such damages as it thinks proper to the mother, or to the child, or both, as they may be dead, payable annually or otherwise for a period not longer than 10 years.	10 years.		Bond must be given to secure fulfillment of judgment, on failure to give bond, imprisonment. After the bond is given, the mother is released on such terms as judge prescribes. The judgment may at any time be enforced by execution of the bond.		After death of either proceedings may continue against his personal representative. Subsequent marriage of the parents cannot bind girls for support. If child dies before proceedings but mother is still living, proceedings may continue and judgment may be rendered the support due to the child. If both mother and child die, judgment can then continue, and does not abate but continues in name of child.	MISSISSIPPI.
Notion as in ordinary actions.		Issue is tried in an ordinary action and question is, guilty or not guilty.		If found guilty, accused is charged with maintenance of child in such sums as court directs and with cost of suit. The court may at any time suspend judgment on such action to defendant as court may prescribe.			Execution may issue at any time to enforce maintenance with order of court and accused may be bound to pay the money to county. If defendant complies with law on any real property of accused in the county where the action is pending.			MISSOURI.
Warrant.	Justice examines complainant under oath, the accused having right to confrontation her. He takes recognizance of accused for his appearance before district court.	Trial is by jury. County may prosecute if mother fails to do so.	Testimony before justice is admissible here. Mother of a competent witness unless impeached for conviction for crime. Any confession of father made at any time shall be admissible when it does not agree with her testimony.	If guilty, accused shall be adjudged the father of child and charged with its maintenance in such sums as court shall order.			Accused must furnish security for fulfillment of judgment or go to jail until he furnishes bail.	Accused and complainant may settle case before judgment if accused gives bond to county and complainant then discharges accused.		NEBRASKA.
			Paternity of child may be established by mutual agreement of father and mother or by confession of father. If not done by justice, or if not before court in such manner as court determines, mother may testify and may be compelled to testify.	Court may adjudge father liable for the maintenance of child.			Refusal to comply with the judgment shall be contempt of court.	No complaint may be settled by the agreement of father and mother.		NEVADA.
Warrant.	Justice takes recognizance with accused for his appearance before district court.	Trial by court unless either party asks for jury. Solemnity of criminality may be proved by mother's affidavit, issue is chargeable or not chargeable.		If found chargeable, court shall order payment of such sums as it deems reasonable to the mother or to defendant for her maintenance of child. The mother and father may be required to indemnify town or county.			On failure to obey order accused may be imprisoned until he complies on such terms as the court thinks proper for inability to pay.			NEW HAMPSHIRE.
Warrant.	Mother is examined under oath and may be compelled to disclose name of father refused to do so in contempt and she may be sent to jail. Magistrate then issues warrant for father.	Upon appearance of accused before the magistrate he may demand a jury trial by paying jury costs. Either party may appeal from decision in magistrate's court and a jury may be demanded in court above by either party.	Mother may be compelled to disclose name of father before magistrate or sent to jail. If on appeal mother has died or is insane or of ill state, testimony given by her before magistrate is admissible.	If judgment is for accused on appeal, he is discharged and suit is dropped. If judgment is against accused, order of the magistrate shall be resumed and may be amended. Court may then assess proper costs and expenses and specify the amount to be paid for the support of the child. Suit may be paid weekly or otherwise. Accused may pay costs of confinement if mother be indigent. If no appeal, the order of the magistrate made in the form above stands.			Accused must give bond or be committed. Action may be brought against signer of bond to enforce the action. These proceedings may be brought by the county prosecutor or attorney or to enable on such proceedings were first begun. Money so collected on bond shall be used to reimburse the county or town or city or for expenses of the confinement of mother. Accused may be discharged from jail for treatment. On failure of child by mother or putative father their goods may be seized and sold or leased, the proceeds going to support of child. Bond shall be recorded and counted upon fulfillment of conditions.	Death of mother does not abate the action.		NEW JERSEY.
										NEW MEXICO.
Warrant.	If accused gives no security to appear before court of sessions of county he is brought before magistrate to be associated with himself mother magistrate and inquires into charge, examining without oath in presence of defendant and in open testimony. At appeal law from order of magistrate to court of sessions.	On appeal the party to whom favor the order was made below must support this order by evidence.	The magistrate may compel the woman to disclose name of father. If she refuses, she shall be committed until she recover from confinement.	Judgment specifies sum to be paid weekly or otherwise for support of child, and the expenses of mother. Father shall be ordered to pay for her support and mother may be ordered to pay costs of confinement. These orders may be confirmed by the court of sessions. Amount may be reduced by the magistrate or reduced or increased on application of either party to the court of sessions.			Both father and mother must give security with sufficient sureties to the order of the magistrate or the court of sessions. On failure to do so they may be committed. They may be discharged from imprisonment for inability to pay. The poor officers prosecute if the security is forfeited or they may sue upon the order. If proved insolvent, the poor officers may be authorized by the magistrate to take the mother or mother by the court of sessions.	The poor officers may compromise with the father, and he is thereupon discharged from all liability. The mother on giving security to indemnify the county may receive the sum paid by the man on the compromise if she is unable to give security and willing to care for her child, she shall be paid the weekly sum out of the amount paid by the father for which he would have been liable on the order of filiation.	The prosecution is dismissed if child is born dead.	NEW YORK.
Warrant.		If an appeal be taken to superior court, trial shall be there by jury.	Mother must disclose name of father on oath or give security for maintenance of child or be jailed. Testimony of mother before the justice shall be "presumptive evidence against the accused."	If judgment is against accused, payment may be ordered of a fine up to \$10 and a sum not exceeding \$50 to the mother and for child charged with maintenance of the child and the court may order. If judgment is for accused, mother must be ordered to give bond for maintenance and child \$5.			Accused shall give bond to the county treasurer if mother be brought before for failure to do so, but will be discharged for insolvency. If defendant disobeys judgment or non suit be found, execution may issue against his real estate. If defendant may bring himself out on appearance the price being paid to county treasurer.			NORTH CAROLINA.

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n Illegitimacy Laws—Continued.

State.	Process.	Preliminary proceedings.	Trial.	Evidence. Compulsion to disclose name of father. Accusation in trial.	Judgment. How and to whom paid. Period of payment. Amount.	Period of support.	Provisions in judgment as to name and status.	Enforcement. Security. Lien.	Compromise.	Effect of death of any of parties. Marriage of parents.	State.
after birth of child is 3	Warrant.....	Recognizance taken with surety for appearance before county court.	Trial shall be by jury on request of either party.	Mother is a competent witness and a respectable witness except she shall not be forced to answer as to pregnancy until 30 days after delivery.	If judgment is against accused, he stands charged with support of child with assistance of mother so long as the child is likely to need it, in such manner as judge shall determine. He shall pay to mother such proportion of expenses already accrued as judge deems just.	See previous column.		Accused must give bond for performance of judgment or be committed, but he may be discharged after six months for insolvency. Judgment is enforced out of bond.	Where overseer of poor has started proceedings any compromise without his consent is not valid against overseer.	On death of mother after complaint, but before trial, the overseer of poor may continue suit in name of county.	VERMONT.
											VIRGINIA.
											WASHINGTON.
after birth of child is 3	Warrant.....	Justice examines complainant under oath and reduces her statement to writing. Then without any hearing on the merits binds defendant with security to appear for trial.	Trial shall be by jury unless waived. After accusation, proceedings may be in name of county court and prosecuting attorney shall appear for complainant.		If found guilty, court may order father to pay to court for maintenance of child such sum as court sees fit.	As long as court may appoint.		Accused must give bond with surety. Judgment may be enforced by making motion against accused and his sureties.		Liability on judgment ceases on death of child.	WEST VIRGINIA.
1 before or	Warrant.....	Complainant is examined under oath and accused may cross-examine her before justice. Justice may require bond; on failure to give it accused is bound over to county court by recognizance with sureties.	If mother fails to prosecute after complaint, officers may do so. Court may appoint counsel to assist district attorney in hasty cases.	Mother may be made to testify, or if dead her testimony before justice may be read in evidence.	Judgment is guilty or not guilty. If guilty, accused is charged with future maintenance of child and past expenses, including costs of confinement, in such manner as judge sees fit.	16 years.....		Judgment is secured by bond to county or town. On failure to give bond accused is committed, but after 90 days may be discharged for insolvency.	Accused may be discharged if he settles with complainant with consent of board of supervisors and gives bond to indemnify county or town. Officials of city, town, or county may compromise, discharging defendant from further liability.		WISCONSIN.
1 before or	Warrant. If accused can not be found or is a nonresident of State, there shall be order of attachment and service by publication.	Complainant shall be examined by justice under oath in presence of accused, who may question her in his defense. The justice recognizes defendant to appear before district court for trial.	Trial shall be by jury and may proceed in absence of defendant.	Examination before justice shall be given in evidence.	If guilty, defendant shall stand charged with maintenance of child in such sum as court shall order.			Court shall require security for enforcement of judgment; for failure to give it, accused shall be imprisoned, but after three months may be discharged for insolvency. If accused absconds, may issue attachment order.	Accused may be discharged if he pays the complainant such sum as she agrees upon and gives bond approved by justice or judge to indemnify county. Agreement must be acknowledged before court by both parties.	If mother dies, prosecution shall not abate but shall go on in name of child. Death of child is no bar to suit; if child dies after judgment, judge shall make such reduction as he thinks proper.	WYOMING.

Proof of paternity.	Subsequent marriage of parents.	Other means of legitimation.	Acknowledgment.	Inheritance.	Gifts.	In general.
making proof of paternal de- father has acknowledged the father is public or private him such or educated him a state of cohabitation with conceived. Oath of mother sup- house is not enough if the duty of unlawful connection illegitimate children may prove brought forth.	Subsequent marriage of parents legitimates un- less the children were born from an incestuous or adulterous connection. Such legitimated children have same rights as if born during marriage.	Either parent may legitimate his child by declaration before a notary, using two witnesses, provided the parents at the time of conception could have contracted marriage and provided there exists on part of parent no legitimate ascendants or descendants. Legitimation may be extended to a deceased child who has left issue and in that case issue benefits thereby. The father may legitimate his natural child by writing in own hand or causing to be executed by the notary public a proper instrument attested by three witnesses in which he acknowledges such person to be his child and designates him by name. Where man has several children by one concubine the ac- knowledgment as above in writing will legitimate them all, though the rest are not mentioned specifically.	Child may be acknowledged by either parent be- fore a notary in the presence of two witnesses. When the parents could legally have married at the time of conception, acknowledgment by the father without consent of mother is only effective as regards the father.	Natural children inherit from mother if she has acknowledged them and has left no lawful descend- ants. If she has left such descendants, the illegitimate children receive only moderate alimony. Natural children of the father only inherit from him when he has left no relatives. Adulterous or incestuous bastards inherit from neither parent but are allowed mere alimony. Illegitimate children do not inherit through the parents. The parents inherit from the natural children. If parents die before natural child has reached majority, she inherits in default of natural child. If inheritance be from deceased natural father, full and inventory must be made by notary in presence of person appointed to defend interest of absent heirs of decedent. Natural children must give security amounting to two-thirds value of property into possession of which they have come. This is security for restitution in case legitimate heirs appear within 3 years. Child legitimated by marriage after its conception takes only those successions opened since marriage of parents.	Natural children by gifts inter vivos or causa mortis can take only amount necessary for sustenance or occupation to maintain them if legitimate children are left. If no legitimate children, natural children may take full amount. If mother has left natural children only a part, they have no action against heirs for more than enough for maintenance. If natural father has not left legitimate children, natural children take by these gifts one-fourth if he has left legiti- mate ascendants; one-third if he has left no more remote collateral relatives. Beyond these parts he must dispose of property in fa- vor of legitimate relatives. Natural father and mother can in no case dispose of more property in favor of adulterous or incestuous children than enough to sustain them or to procure them an occu- pation.	Natural children make no part of children prop- erty so called unless legitimated. Illegitimate child though acknowledged can not claim rights of legitimate children. Every claim of natural child may be contested by those interested.

REFERENCE INDEX TO ILLEGITIMACY LAWS OF
THE UNITED STATES

(In Effect January 1, 1919)

REFERENCE INDEX TO ILLEGITIMACY LAWS OF THE UNITED STATES.

[In effect Jan. 1, 1919.]

PREFATORY NOTE.

The following references to illegitimacy laws in force in the United States are arranged in two ways: First, according to a topical index, the States being grouped alphabetically under each topic; and, second, consecutively under each State. In the second grouping each reference is followed by a key word, indicating the subject to which it refers.

The topical index has two main headings: The first, General and Status Legislation; the second, Support Legislation. The sub-topics—Adoption, Registration of Births, etc.—are those within the scope of which illegitimacy legislation is usually found.

Although the specific references cover the provisions concerning illegitimacy only, they may be used as a basis for finding also the rest of the law relating to any given subtopic. For a few subjects the list of States is nearly complete; for example, the birth registration laws of 37 States make some mention of illegitimate births and are therefore cited, and in order to determine the total number of States having birth registration laws, the laws of only the remaining 16 jurisdictions would need to be searched.

With a few exceptions, judicial decisions were not examined in connection with compiling these references.

TOPICAL INDEX OF REFERENCES.

GENERAL AND STATUS LEGISLATION.

- ADOPTION.**—Consent of mother required for the adoption of her illegitimate child.
- ARKANSAS.....Kirby and Castle's Digest 1916, secs. 1568, 1583.
- CALIFORNIA.....Deering's Civil Code 1915, sec. 224, as amended by
Laws 1917, ch. 558.
- IDAHO.....Revised Codes 1908, sec. 2703.
- ILLINOIS.....Hurd's Revised Statutes 1917, ch. 4, secs. 2, 9a-9c;
ch. 23, sec. 183.
- IOWA.....Code 1897, sec. 3251.
- LOUISIANA.....Merrick's Revised Civil Code 1912, art. 214.
- MAINE.....Revised Statutes 1916, ch. 72, sec. 36.
- MASSACHUSETTS....Revised Laws 1902, ch. 83, secs. 13, 17-19; ch. 154,
sec. 2, as amended by Laws 1904, ch. 302.
- MICHIGAN.....Compiled Laws 1915, sec. 14139.
- MINNESOTA.....General Statutes 1913, secs. 7153-7155, as amended by
Laws 1917, ch. 222.
- MONTANA.....Revised Codes 1907, sec. 3764.
- NEBRASKA.....Revised Statutes 1913, secs. 1616, 1620.
- NEVADA.....Revised Laws 1912, secs. 731, 746, 5828.
- NEW HAMPSHIRE...Public Statutes 1901, ch. 181, sec. 2.
- NEW MEXICO.....Statutes 1915, secs. 13, 17.
- NEW YORK.....Birdseye Consolidated Laws (2d ed.) 1917, vol. 2,
Domestic Relations, ch. 14, secs. 111, 113.
- NORTH DAKOTA....Compiled Laws 1913, sec. 4444.
Laws 1911, ch. 177, sec. 17.
- OKLAHOMA.....Revised Laws 1910, sec. 4388.
- OREGON.....Lord's Oregon Laws 1910, sec. 7099, as amended by
Laws 1915, ch. 31.
- SOUTH CAROLINA...Code 1912 (Civil), sec. 3798.
- SOUTH DAKOTA....Revised Codes 1903 (Civil), sec. 131.
Laws 1915, ch. 119, sec. 23.
- TENNESSEE.....Thompson's Shannon's Code 1918, secs. 4436a-65a15.
Laws 1917, sec. 13.
- TEXAS.....Revised Statutes 1917, sec. 3757.
- WEST VIRGINIA...Laws 1917, ch. 70, sec. 20.
- WISCONSIN.....Statutes 1917, sec. 4022.

APPRENTICESHIP.—Consent to, and binding out by mother and others.

- ALASKA.....Compiled Laws 1913, sec. 446.
- CALIFORNIA.....Deering's Civil Code 1915, sec. 265.

COLORADO.....Revised Statutes 1908, sec. 134.
DELAWARE.....Revised Code 1915, secs. 3102, 3112.
ILLINOIS.....Hurd's Revised Statutes 1917, ch. 9, sec. 2.
MARYLAND.....Annotated Code, vol. 1, 1911, art. 6, sec. 11.
MASSACHUSETTS....(Apprenticeship Law repealed by Laws 1918, ch. 257,
sec. 402.)
MICHIGAN.....Compiled Laws 1915, sec. 11517.
NORTH CAROLINA...Pell's Revisal 1908, sec. 201.
OREGON.....Lord's Oregon Laws 1910, sec. 7059.
SOUTH CAROLINA...Code 1912 (Civil), sec. 973.
TENNESSEE.....Thompson's Shannon's Code 1918, secs. 2708, 4322.
VERMONT.....General Laws 1917, secs. 3732-3733.

ALASKA.....Compiled Laws 1913, secs. 2005-2006.
ARKANSAS.....Kirby and Castle's Digest 1916, secs. 1907-1908.
COLORADO.....Revised Statutes 1908, sec. 1641.
CONNECTICUT.....General Statutes 1918, secs. 6389-6390.
FLORIDA.....General Statutes 1906, secs. 3218-3219.
GEORGIA.....Park's Annotated Code, 1914 (Penal), sec. 79.
HAWAII.....Revised Laws 1915, sec. 4164.
ILLINOIS.....Hurd's Revised Statutes 1917, ch. 38, sec. 44.
KENTUCKY.....Statutes 1915, sec. 1220.
MAINE.....Revised Statutes 1916, ch. 126, sec. 8.
MASSACHUSETTS....Revised Laws 1902, ch. 212, secs. 17-18.
MICHIGAN.....Compiled Laws 1915, secs. 15469-15470.
MINNESOTA.....General Statutes 1913, sec. 8697, as amended by Laws
1917, ch. 231.
MISSOURI.....Revised Statutes 1909, sec. 4470.
NEVADA.....Revised Laws 1912, sec. 6450.
NEW HAMPSHIRE...Public Statutes 1901, ch. 278, sec. 14.
NEW JERSEY.....Compiled Statutes 1910, vol. 2, p. 1784, sec. 118.
NEW YORK.....Birdseye Consolidated Laws (2d ed.), 1917, vol. 5, Penal
Law, ch. 40, sec. 2461.
NORTH CAROLINA..Pell's Revisal 1908, sec. 3623.
NORTH DAKOTA....Compiled Laws 1913, sec. 9606.
OKLAHOMA.....Revised Laws 1910, secs. 2438, 2807.
OREGON.....Lord's Oregon Laws 1910, secs. 2036, 2036.
PENNSYLVANIA....Stewart's Purdon's Digest, vol. 1, p. 901, sec. 3.
RHODE ISLAND....General Laws 1909, ch. 347, secs. 10-11.
SOUTH DAKOTA....Revised Code 1903 (Penal), secs. 344, 794.
VERMONT.....General Laws 1917, secs. 6804-6805.
WASHINGTON.....Remington's Codes and Statutes 1915, sec. 2452.
WISCONSIN.....Statutes 1917, secs. 4585-4586.

BIRTHS, REGISTRATION OF.—Statement as to whether child is legitimate or illegitimate, and registration on STANDARD CENSUS FORM; miscellaneous.

- ALABAMA.....Code 1907, sec. 711, as amended by Laws 1911, p. 116.
 ALASKA.....Laws 1913, ch. 35, sec. 2.
 ARIZONA.....Revised Statutes 1913, Civil Code, sec. 4418.
 COLORADO.....Revised Statutes 1908, sec. 384.
 DELAWARE.....Revised Code 1915, sec. 808.
 DISTRICT OF CO-
 LUMBIA.....34 U. S. Statutes at Large, p. 1010, ch. 2280, sec. 1.
 FLORIDA.....Laws 1915, ch. 6892, sec. 14.
 GEORGIA.....Park's Annotated Code 1914 (Political), sec. 1676 (bb).
 HAWAII.....Revised Laws 1915, sec. 1133, as amended by Laws
 1915a.48, sec. 1142.
 IDAHO.....Laws 1911, ch. 191, sec. 14.
 ILLINOIS.....Hurd's Revised Statutes 1917, ch. 111½, sec. 31.
 IOWA.....Laws 1917, ch. 326, sec. 6.
 KENTUCKY.....Statutes 1915, sec. 2062a.14.
 LOUISIANA.....Laws 1918, No. 257, sec. 14.
 MASSACHUSETTS....Revised Laws 1902, ch. 29, sec. 1, as amended by Laws
 1910, ch. 322, sec. 25.
 Laws 1912, ch. 280, sec. 2; sec. 3 repeals Revised Laws
 1902, ch. 29, sec. 3.
 MICHIGAN.....Compiled Laws 1915, sec. 5614.
 MINNESOTA.....General Statutes 1913, secs. 4651-4652 and 4661-4662 as
 amended, and 4653a and 4660a-4660b as added, by
 Laws 1917, ch. 220.
 Laws 1917, ch. 212, secs. 8-10.
 MISSOURI.....Revised Statutes 1909, sec. 6677.
 MONTANA.....Revised Codes 1907, sec. 1769.
 NEBRASKA.....Revised Statutes 1913, sec. 2748.
 NEVADA.....Revised Laws 1912, sec. 2965.
 NEW YORK.....Birdseye Consolidated Laws (2d ed.) 1917, vol. 6 Public
 Health, ch. 45, sec. 383.
 NORTH CAROLINA..Pell's Revisal 1908, sec. 5438b(14), items 6 and 8, Sup-
 plement 1913 (1913, ch. 109, sec. 14).
 NORTH DAKOTA....Compiled Laws 1913, sec. 447.
 Laws 1915, ch. 183, sec. 8.
 OHIO.....General Code 1910, sec. 219 (items 5 and 6), as amended
 by Laws 1913, p. 194.
 OKLAHOMA.....Laws 1917, ch. 168, sec. 14 (6).
 OREGON.....Laws 1915, ch. 268, sec. 13, as amended by Laws 1917,
 ch. 384.
 PENNSYLVANIA....Stewart's Purdon's Digest, Supplement 1905-1915, vol.
 6, p. 7303, sec. 20 (1915, No. 402, p. 900, sec. 14).
 PORTO RICO.....Revised Statutes and Codes 1911, secs. 231-233, 235.
 TENNESSEE.....Thompson's Shannon's Code 1918, sec. 3118a-51.
 TEXAS.....Laws 1917, ch. 129, sec. 9.

BIRTHS, REGISTRATION OF—Continued.

- UTAH.....Compiled Laws 1917, sec. 5052.
 VERMONT.....General Laws 1917, sec. 3786.
 VIRGINIA.....Code 1904, Supplement 1916, p. 845, sec. 14; sec. 20, as amended by Laws 1918, ch. 58.
 WASHINGTON.....Remington's Codes and Statutes 1915, sec. 5435.
 WISCONSIN.....Statutes 1917, secs. 1022-30 (items 5 and 21).
 WYOMING.....Compiled Statutes 1910, sec. 2957.

CUSTODY.—Surrender thereof to institution, etc. (See also provisions in "ILLEGITIMACY PROCEEDINGS.")

- CALIFORNIA.....Deering's Civil Code 1915, sec. 200.
 GEORGIA.....Park's Annotated Code (Civil), sec. 3028.
 ILLINOIS.....Hurd's Revised Statutes 1917, ch. 17, sec. 13.
 IOWA.....Code 1897, Supplement 1913, sec. 3260-c.
 LOUISIANA.....Merrick's Revised Civil Code 1912, arts. 213, 238.
 MARYLAND.....Annotated Code, vol. 3 (1914), art. 27, secs. 484-488, as added by Laws 1916, ch. 210.
 MASSACHUSETTS....Revised Laws 1902, ch. 83, sec. 13.
 MICHIGAN.....Compiled Laws 1915, sec. 7230.
 MINNESOTA.....General Statutes 1913, sec. 7154, as amended by Laws 1917, ch. 222.
 MONTANA.....Revised Codes 1907, sec. 3745.
 NEVADA.....Revised Laws 1912, sec. 766.
 NEW HAMPSHIRE...Public Statutes 1901, Supplement 1913, p. 163 (1911, ch. 134, sec. 12).
 NEW JERSEY.....Laws 1913, ch. 331, secs. 1-3.
 NORTH CAROLINA..Laws 1917, ch. 59, secs. 1-3.
 NORTH DAKOTA....Compiled Laws 1913, sec. 4425.
 OKLAHOMA.....Revised Laws 1910, sec. 4369.
 PORTO RICO.....Revised Statutes and Codes 1911, secs. 184, 3292.
 SOUTH DAKOTA....Revised Codes 1903 (Civil), sec. 112.
 TENNESSEE.....Thompson's Shannon's Code 1918, sec. 7346 (See Court Decision "1 Yer. 92" under sec. 5408).
 - UTAH.....Compiled Laws 1917, sec. 391.
 WYOMING.....Compiled Statutes 1910, sec. 5739, as amended by Laws 1915, ch. 143.

DEFINITIONS.—(For definitions in certain States, see also "ILLEGITIMACY PROCEEDINGS.")

- GEORGIA.....Park's Annotated Code 1914 (Civil), sec. 3026.
 LOUISIANA.....Merrick's Revised Civil Code 1912, arts. 27, 178, 180-183, 202, and 3556(8).
 PORTO RICO.....Revised Statutes and Codes 1911, secs. 3250, 3263. (See also "LEGITIMACY, PRESUMPTION OF.")

DIVORCE.—(For effect of divorce on legitimacy of children, see "MARRIAGE AND DIVORCE.")

GUARDIANSHIP OF MOTHER, CONSENT TO APPOINTMENT OF GUARDIAN, ETC.:

ARIZONA.....	Revised Statutes 1913, Civil Code, sec. 1118.
ARKANSAS.....	Kirby and Castle's Digest 1916, sec. 4155.
CALIFORNIA.....	Deering's Civil Code 1915, sec. 241.
CONNECTICUT.....	General Statutes 1918, sec. 4863.
GEORGIA.....	Park's Annotated Code 1914 (Civil), sec. 3045.
IDAHO.....	Revised Codes 1908, sec. 5781.
LOUISIANA.....	Merrick's Revised Civil Code 1912, arts. 256, 261.
MISSOURI.....	Revised Statutes 1909, sec. 403, as amended by Laws 1913, p. 92.
MONTANA.....	Revised Codes 1907, sec. 3778.
NEW MEXICO.....	Statutes 1915, sec. 2577.
NEW YORK.....	Birdseye Consolidated Laws (2d ed.) 1917, vol. 2; Domestic Relations, ch. 14, sec. 86.
NORTH DAKOTA.....	Compiled Laws 1913, sec. 4456.
OKLAHOMA.....	Revised Laws 1910, sec. 3326.
SOUTH DAKOTA.....	Revised Codes 1903 (Civil), sec. 144.
VERMONT.....	General Laws 1917, sec. 3636.
WYOMING.....	Compiled Statutes 1910, sec. 5739, as amended by Laws 1915, ch. 143.

INCESTUOUS MARRIAGES.—Specifically applied to illegitimate relationship.
(For legitimacy of children, see "MARRIAGE AND DIVORCE.")

ALABAMA.....	Code 1907, secs. 4877-4878.
ARIZONA.....	Revised Statutes 1913, Civil Code, sec. 3838.
ARKANSAS.....	Kirby and Castle's Digest 1916, sec. 6083.
CALIFORNIA.....	Deering's Civil Code 1915, sec. 59.
COLORADO.....	Revised Statutes 1908, secs. 1769-1770, 4163-4164.
IDAHO.....	Revised Codes 1908, sec. 2615.
ILLINOIS.....	Hurd's Revised Statutes 1917, ch. 89, sec. 1.
KANSAS.....	General Statutes 1915, sec. 6135.
KENTUCKY.....	Statutes 1915, sec. 2096.
LOUISIANA.....	Merrick's Revised Civil Code 1912, arts. 94-95.
MISSOURI.....	Revised Statutes 1909, sec. 8280.
MONTANA.....	Revised Codes 1907, sec. 3611.
NEBRASKA.....	Revised Statutes 1913, secs. 1542, 8769.
NEW MEXICO.....	Statutes 1915, sec. 3430.
NEW YORK.....	Birdseye Consolidated Laws (2d ed.) 1917, vol. 2, Domestic Relations, ch. 14, sec. 5.
NORTH DAKOTA.....	Compiled Laws 1913, sec. 4359.
PORTO RICO.....	(See footnote to section 5717 of the Revised Statutes and Codes 1911.)
SOUTH DAKOTA.....	Revised Codes 1903 (Civil), sec. 38.
UTAH.....	Compiled Laws 1917, sec. 2966.
WYOMING.....	Compiled Statutes 1910, sec. 3917.

INHERITANCE.

- ALABAMA.....Code 1907, secs. 3760-3761.
- ALASKA.....Compiled Laws 1913, secs. 597-598.
- ARIZONA.....Revised Statutes 1913, Civil Code, secs. 1103-1104.
- ARKANSAS.....Kirby and Castle's Digest 1916, sec. 2852.
- CALIFORNIA.....Deering's Civil Code 1915, secs. 1387-1388.
- COLORADO.....Revised Statutes 1908, secs. 7046, 7049.
- CONNECTICUT.....General Statutes 1918, sec. 5061.
- DELAWARE.....Revised Code 1915, secs. 3087, 3087a, as added by Laws
1917, ch. 229, 3269.
- DISTRICT OF CO-
LUMBIA.....Code of Law 1911, secs. 387, 957-958.
- FLORIDA.....General Statutes 1906, sec. 2292.
- GEORGIA.....Park's Annotated Code 1914 (Civil), secs. 3029-3030.
- HAWAII.....Revised Laws 1915, secs. 3248-3249, 2995.
- IDAHO.....Revised Codes 1908, secs. 5703-5704.
- ILLINOIS.....Hurd's Revised Statutes 1917, ch. 39, secs. 2-3.
- INDIANA.....Burns' Annotated Statutes 1914, secs. 2998, 3600, 3002.
- IOWA.....Code 1897, secs. 3384-3385.
- KANSAS.....General Statutes 1915, secs. 3844-3847.
- KENTUCKY.....Statutes 1915, secs. 1397-1398.
- LOUISIANA.....Marr's Annotated Revised Statutes 1915, sec. 4142.
Merrick's Revised Civil Code 1912, arts. 206-212, 917-
929, 933, 949, 954, 1483-1488.
- MAINE.....Revised Statutes 1916, ch. 65, sec. 13; ch. 80, sec. 3.
- MARYLAND.....Annotated Code, vol. 1 (1911), art. 46, secs. 29-30; vol.
2 (1911), art. 93, sec. 134.
- MASSACHUSETTS....Revised Laws 1902, ch. 133, secs. 3-5.
- MICHIGAN.....Compiled Laws 1915, secs. 11796-11798.
- MINNESOTA.....General Statutes 1913, secs. 7240-7241.
- MISSISSIPPI.....Code 1906, sec. 1655.
- MISSOURI.....Revised Statutes 1909, sec. 340.
- MONTANA.....Revised Codes 1907, secs. 4821-4822.
- NEBRASKA.....Revised Statutes 1913, secs. 1273-1274.
- NEVADA.....Revised Laws 1912, secs. 6117-6118.
- NEW HAMPSHIRE...Public Statutes 1901, ch. 196, sec. 4 (Supplement 1913,
p. 462), sec. 5; ch. 174, sec. 18.
- NEW JERSEY.....Compiled Statutes 1910, vol. 2, p. 1923, sec. 13, as
amended by Laws 1917, chs. 139 and 246; vol. 3, p.
3874, sec. 169, as amended by Laws 1918, ch. 63.
- NEW MEXICO.....Statutes 1915, secs. 1850, as amended by Laws 1915, ch.
69 (see also Statutes 1915, Appendix, p. 106); 1851;
1856.
- NEW YORK.....Birdseye Consolidated Laws (2d ed.) 1917, vol. 2,
Decedent Estate, ch. 13, secs. 89, 98.
- NORTH CAROLINA...Pell's Revisal 1908, secs. 136-137, 264; sec. 1556, rule 9,
Supplement 1913 (as amended by Laws 1913, ch. 71);
rules 10 and 13.

INHERITANCE—Continued.

- NORTH DAKOTA.....Compiled Laws 1913, secs. 5745-5746.
Laws 1917, ch. 70, sec. 1.
- OHIO.....General Code 1910, secs. 8590-8591.
- OKLAHOMA.....Revised Laws 1910, secs. 8420-8421.
- OREGON.....Lord's Oregon Laws 1910, secs. 7351-7352.
Laws 1917, ch. 48, sec. 14.
- PENNSYLVANIA....Stewart's Purdon's Digest 1700-1903, vol. 2, p. 2004,
secs. 52 (in part repealed by Laws 1917, No. 192, pp.
444-445), 55.
Laws 1917, No. 192, secs. 14-15, 27-28.
- PORTO RICO.....Revised Statutes and Codes 1911, secs. 3265, 3809,
3886-3891, 4001, 4005-4009.
- RHODE ISLAND....General Laws 1909, ch. 316, sec. 7.
- SOUTH CAROLINA...Code 1912 (Civil), secs. 3454, 3562, 3575, 3798.
- SOUTH DAKOTA.....Revised Codes 1903 (Civil), secs. 1096-1097.
- TENNESSEE.....Thompson's Shannon's Code 1918, secs. 4166-4167
(sec. 4168 was declared unconstitutional in 130 Tenn.
494), 4169.
- TEXAS.....Revised Statutes 1911 (Civil), arts. 2472-2473.
- UTAH.....Compiled Laws 1917, secs. 6413-6414, 6428-6430.
- VERMONT.....General Laws 1917, secs. 3418-3419.
- VIRGINIA.....Code 1904, secs. 2552-2554.
- WASHINGTON.....Remington's Codes and Statutes 1915, secs. 1345-1346.
- WEST VIRGINIA....Barnes' Code 1916, ch. 78, secs. 5-6.
- WISCONSIN.....Statutes 1917, secs. 2273-2274.
- WYOMING.....Compiled Statutes 1910, secs. 5731-5733.

JUVENILE COURTS.—Petition to state name of mother of child of illegitimate birth. Notice to mother. (For consent to adoption under juvenile court laws, see "ADOPTION.")

- ARKANSAS.....Kirby and Castle's Digest 1916, sec. 1568.
- ILLINOIS.....Hurd's Revised Statutes 1917, ch. 23, secs. 172-173.
- KENTUCKY.....Statutes 1915, sec. 331e.4.
- MICHIGAN.....Compiled Laws 1915, sec. 2017 (juvenile court law pro-
vides relief for unmarried mother of dependents).
- MINNESOTA.....Laws 1917, ch. 397, sec. 1 (child of illegitimate birth is
classed as a "dependent" in the juvenile court law).
- MONTANA.....Laws 1911, ch. 122, sec. 5.
- NEVADA.....Revised Laws 1912, sec. 731.
- NORTH DAKOTA....Laws 1911, ch. 177, secs. 5-6.
- SOUTH DAKOTA....Laws 1915, ch. 119, secs. 5-6.
- WEST VIRGINIA....Laws 1915, ch. 70, secs. 4; 5, as amended by Laws 1917,
ch. 63.

LEGITIMACY, PRESUMPTION OF, ETC.

- CALIFORNIA.....Deering's Civil Code, secs. 193-195.
Deering's Code of Civil Procedure, secs. 1962 (5), 1963
(31).

LEGITIMACY, PRESUMPTION OF, ETC.—Continued.

GEORGIA.....	Park's Annotated Code 1914 (Civil), sec. 3012.
LOUISIANA.....	Merrick's Revised Civil Code 1912, arts. 184-197; 208-212.
MONTANA.....	Revised Codes 1907, secs. 3738-3740.
NORTH DAKOTA.....	Compiled Laws 1913, secs. 4420-4422, 7935 (5), 7936 (31).
OKLAHOMA.....	Revised Laws 1910, secs. 4364-4366.
OREGON.....	Lord's Oregon Laws 1910, secs. 798 (6), 799 (32).
PORTO RICO.....	Revised Statutes and Codes 1911, secs. 3250-3256.
SOUTH DAKOTA.....	Revised Codes 1903 (Civil), secs. 107-109.

LEGITIMATION, METHODS OF. By subsequent marriage of parents, by judicial proceeding, by writing, and by open and notorious acknowledgment or by adoption of child by father:

ALABAMA.....	Code 1907, secs. 5199-5201.
ALASKA.....	Compiled Laws 1913, secs. 438, 597-598.
ARIZONA.....	Revised Statutes 1913, Civil Code, secs. 1103, 1193, 3840.
ARKANSAS.....	Kirby and Castle's Digest 1916, sec. 2353.
CALIFORNIA.....	Deering's Civil Code 1915, secs. 215, 230, 1387.
COLORADO.....	Revised Statutes 1908, sec. 7046.
CONNECTICUT.....	General Statutes 1918, sec. 5061.
DELAWARE.....	(No provisions.)
DISTRICT OF CO- LUMBIA.....	Code of Law 1911, sec. 957.
FLORIDA.....	General Statutes 1906, sec. 2602.
GEORGIA.....	Park's Annotated Code 1914 (Civil), secs. 3012-3013.
HAWAII.....	Revised Laws 1915, sec. 2996.
IDAHO.....	Revised Codes 1908, secs. 2699, 2709, 5763.
ILLINOIS.....	Hurd's Revised Statutes 1917, ch. 17, sec. 15; ch. 39, sec. 3.
INDIANA.....	Burns' Annotated Statutes 1914, secs. 3000-3001.
IOWA.....	Code 1897, secs. 3150, 3385.
KANSAS.....	General Statutes 1915, sec. 3845.
KENTUCKY.....	Statutes 1915, sec. 1398.
LOUISIANA.....	Marr's Annotated Revised Statutes 1915, secs. 4142- 4143. Merrick's Revised Civil Code 1912, arts. 198-201, 203- 206.
MAINE.....	Revised Statutes 1916, ch. 80, sec. 3.
MARYLAND.....	Annotated Code, vol. 1 (1911), art. 46, sec. 29.
MASSACHUSETTS.....	Revised Laws 1902, ch. 133, sec. 5.
MICHIGAN.....	Compiled Laws 1915, secs. 11387-11391, 11793.
MINNESOTA.....	General Statutes 1913, secs. 7105, 7240.
MISSISSIPPI.....	Code 1906, sec. 542, as amended by Laws 1910, ch. 185; sec. 1655.
MISSOURI.....	Revised Statutes 1909, secs. 341, 344.

LEGITIMATION, METHODS OF—Continued.

- MONTANA.....Revised Codes 1907, secs. 3760, 3770, 4821.
- NEBRASKA.....Revised Statutes 1913, sec. 1273.
- NEVADA.....Revised Laws 1912, secs. 2351, 5833, 6117.
- NEW HAMPSHIRE...Public Statutes 1901, ch. 174, sec. 18.
- NEW JERSEY.....Compiled Statutes 1910, vol. 3, p. 3874, sec. 169, as amended by Laws 1918, ch. 63.
Laws 1914, ch. 5, sec. 1.
Laws 1915, ch. 173, secs. 1-3.
- NEW MEXICO.....Statutes 1915, sec. 1850, as amended by Laws 1915, ch. 69 (see also Statutes 1915, Appendix, p. 106); 1852.
- NEW YORK.....Birdseye Consolidated Laws (2d ed.) 1917, vol. 2. Domestic Relations, ch. 14, sec. 24.
- NORTH CAROLINA...Pell's Revisal 1908, secs. 263-264.
Laws 1917, ch. 219, secs. 1-2.
- NORTH DAKOTA....Compiled Laws 1913, secs. 4421, 4450, 5745.
Laws 1917, ch. 70, secs. 1-3.
- OHIO.....General Code 1910, sec. 8591.
- OKLAHOMA.....Revised Laws 1910, secs. 4365; 4399, as amended by Laws 1910-1911, p. 169, ch. 73; sec. 8420.
- OREGON.....Lord's Oregon Laws 1910, secs. 7026, 7351-7352.
Laws 1917, ch. 48, sec. 14.
- PENNSYLVANIA.....Stewart's Purdon's Digest 1700-1903, vol. 3, p. 2445, sec. 31 (in part repealed by Laws 1917, No. 192, pp. 443-444).
Laws, 1917, No. 192, sec. 15(d).
- PORTO RICO.....Revised Statutes and Codes 1911, secs. 225, 405, 3250, 3257-3265, 3389, 3809.
- RHODE ISLAND.....(No provisions.)
- SOUTH CAROLINA...(No specific provisions, but consult Civil Code 1912, sec. 3798.)
- SOUTH DAKOTA....Revised Codes 1903 (Civil), secs. 108, 138, 1096.
- TENNESSEE.....Thompson's Shannon's Code 1918, secs. 5402, 5406-5408, 5412-5413, 6027 (10), 6069.
- TEXAS.....Revised Statutes 1911 (Civil), art. 2472.
- UTAH.....Compiled Laws 1917, secs. 19, 393, 6413.
- VERMONT.....General Laws 1917, sec. 3419.
- VIRGINIA.....Code 1904, sec. 2553.
- WASHINGTON.....Remington's Codes and Statutes 1915, secs. 1345, 7155.
- WEST VIRGINIA....Barnes' Code 1916, ch. 78, sec. 6.
- WISCONSIN.....Statutes 1917, secs. 2274, 2339n-25.
- WYOMING.....Compiled Statutes 1910, sec. 5731.

MARRIAGE AND DIVORCE.—Effect of void and annulled marriages and of divorce on legitimacy of children, etc.:

- ALABAMA.....Code 1907, secs. 3807, 4880.
- ALASKA.....Compiled Laws 1913, sec. 597.
Laws 1917, ch. 56, secs. 12-14.

MARRIAGE AND DIVORCE—Continued.

- ARIZONA.....Revised Statutes 1913, Civil Code, secs. 1103; 3864. as amended by Laws 1917, ch. 54.
- ARKANSAS.....Kirby and Castle's Digest 1916, secs. 2854, 2887, 6035, 6095-6096, 6098, 6105.
- CALIFORNIA.....Deering's Civil Code 1915, secs. 84, 144-145, 194, 1387.
- COLORADO.....Revised Statutes 1908, sec. 2112 (apparently superseded by Laws 1915, ch. 74, and Laws, 1917, ch. 65).
- CONNECTICUT.....General Statutes 1918, secs. 5289-5293.
- DELAWARE.....Revised Code 1915, secs. 3029-3030.
- DISTRICT OF CO-
LUMBIA.....Code of Law 1911, secs. 972-974.
- FLORIDAGeneral Statutes 1906, secs. 1929, 2579, 2586.
- GEORGIA.....Park's Annotated Code 1914 (Civil), secs. 2180, 2935, 2963, 3012.
Park's Annotated Code 1914 (Penal), sec. 369.
- HAWAII.....Revised Laws 1915, secs. 2922-2923, 2940-2941.
- IDAHO.....Revised Codes 1908, secs. 2642, 2669, 5703.
- ILLINOIS.....Hurd's Revised Statutes 1917, ch. 40, sec. 3; ch. 89, secs. 4, 18.
- INDIANA.....Burns' Annotated Statutes 1914, secs. 1060-1064.
- IOWA.....Code 1897, secs. 3175, 3185-3186.
- KANSAS.....General Statutes 1915, sec. 7585.
- KENTUCKY.....Statutes 1915, secs. 166, 1399a-1399b, 2098-2099.
- LOUISIANA.....Marr's Annotated Revised Statutes 1915, secs. 4453-4454.
Merrick's Revised Civil Code 1912, arts. 181-183, 198, 204.
- MAINE.....Revised Statutes 1916, ch. 65, secs. 13, 16-17.
- MARYLAND.....(No provisions.)
- MASSACHUSETTS....Revised Laws 1902, ch. 151, secs. 6, 12-13 (sec. 14 repealed), 15; ch. 152, sec. 22.
Laws 1902, ch. 310, secs. 1-2.
- MICHIGAN.....Compiled Laws 1915, secs. 11367, 11387-11392, 11418-11420.
- MINNESOTA.....General Statutes 1913, sec. 7105.
- MISSISSIPPI.....Code 1906, sec. 1670.
- MISSOURI.....Revised Statutes 1909, secs. 342, 2370, 8291.
- MONTANARevised Codes 1907, secs. 3638, 3683-3684, 4821.
- NEBRASKA.....Revised Statutes 1913, secs. 1591-1594, 1608.
- NEVADA.....Revised Laws 1912, secs. 2339, 6117.
- NEW HAMPSHIRE...Public Statutes 1901, ch. 174, sec. 3; ch. 175, sec. 7.
- NEW JERSEY.....Compiled Statutes 1910, vol. 2, p. 2022, sec. 1.
- NEW MEXICO.....Statutes 1915, sec. 3434.
- NEW YORK.....Parson's Code of Civil Procedure 1918, secs. 1745, 1749, 1759-1760.

MARRIAGE AND DIVORCE—Continued.

- NORTH CAROLINA... Pell's Revisal 1908, secs. 1556, rule 13, 1569, 2083.
 Supplement 1913, p. 2087 (see also Laws of 1911, ch. 215
 and 1913, ch. 123), as amended by Laws 1917, ch. 135.
- NORTH DAKOTA.....Compiled Laws 1913, secs. 4394-4395, 4370, 5745.
- OHIO.....General Code 1910, secs. 8591, 11987.
- OKLAHOMA.....Revised Laws 1910, secs. 4974, 8420.
- OREGON.....Lord's Oregon Laws 1910, sec. 7026.
- PENNSYLVANIA....Stewart's Purdon's Digest 1700-1903, vol. 1, p. 1247,
 sec. 32; vol. 3, p. 2446, secs. 32-33.
- PORTO RICO.....(No specific provisions.)
- RHODE ISLAND.....General Laws 1909, ch. 243, secs. 2-3.
- SOUTH CAROLINA...Code 1912 (Civil), sec. 3756 (Slave marriages).
- SOUTH DAKOTA.....Revised Codes 1903 (Civil), secs. 63, 81-82, 1096.
- TENNESSEE.....Thompson's Shannon's Code 1918, secs. 4179, 4198-4200,
 4229.
- TEXAS.....Revised Statutes 1911 (Civil), arts. 2472, 4614-4616,
 4636.
- UTAH.....Compiled Laws 1917, secs. 2968, 6413.
- VERMONT.....General Laws 1917, secs. 3546, 3553, 3597.
- VIRGINIA.....Code 1904, secs. 2227, 2554.
- WASHINGTON.....(No provisions.)
- WEST VIRGINIA....Barnes' Code 1916, ch. 63, sec. 8; ch. 78, sec. 7.
- WISCONSIN.....Statutes 1917, secs. 2339n-24 to 2339n-25.
- WYOMING.....Compiled Statutes 1910, secs. 3941-3944.

MATERNITY HOSPITALS, LYING-IN HOMES, BOARDING HOMES FOR

INFANTS.—Provisions for admission of illegitimate children and for records, etc., regarding same. (References are made only to those laws which specify illegitimacy. Approximately 18 to 20 States have laws on the subject.)

- INDIANA.....Burns' Annotated Statutes 1914, secs. 3678a-3678n;
 (secs. 3678c, 3678h-3678k apply specifically).
- MAINE.....Revised Statutes 1916, ch. 64, sec. 58, as amended by
 Laws 1917, ch. 176.
 Laws 1917, ch. 149, secs. 1-4.
- MINNESOTA.....Laws 1917, ch. 212, secs. 8-10.
- NORTH DAKOTA....Laws 1915, ch. 183, secs. 3, 8, 10-11.
- WISCONSIN.....Statutes 1917, secs. 1542a-1542g.

NAME.—Provisions as to whose name child shall bear (Consult also "ILLEGITIMACY PROCEEDINGS").

- ALABAMA.....Code 1907, sec. 5201.
- HAWAII.....Revised Laws 1915, secs. 3070-3071.
- PENNSYLVANIA....Stewart's Purdon's Digest 1700-1903, vol. 2, p. 2004,
 secs. 52 (in part repealed by Laws 1917, No. 192,
 pp. 443-444), 55; vol. 3, p. 3197, sec. 4.
- PORTO RICO.....Revised Statutes and Codes 1911, sec. 3256.
- TENNESSEE.....Thompson's Shannon's Code 1918, sec. 5412.
- WISCONSIN.....Statutes 1917, sec. 1022-30 (item 21).

RESIDENCE, SETTLEMENT, DOMICILE.—Illegitimate child to have residence of mother; settlement for obtaining benefits of poor laws.

GEORGIA.....	Park's Annotated Code 1914 (Civil), sec. 2184.
INDIANA.....	Burns' Annotated Statutes 1914, sec. 9745.
IOWA.....	Code 1897, sec. 2224(5).
KANSAS.....	General Statutes 1915, sec. 6821 (item 3).
MAINE.....	Revised Statutes 1916, ch. 29, sec. 1.
MASSACHUSETTS....	Laws 1911, ch. 669, sec. 1 (repeals Revised Laws 1902, ch. 80).
NEW HAMPSHIRE...	Public Statutes 1901, ch. 83, sec. 1 (item 3).
NEW JERSEY.....	Compiled Statutes 1910, vol. 3, p. 4012, sec. 4, superseded by Laws 1911, ch. 196, sec. 9, as amended by Laws 1912, ch. 14.
NORTH CAROLINA...	Pell's Revisal 1908, sec. 1333 (item 4).
NORTH DAKOTA....	Compiled Laws 1913, sec. 2501 (item 3).
OKLAHOMA.....	Revised Laws 1910, sec. 4534.
PENNSYLVANIA.....	Stewart's Purdon's Digest 1700-1903, vol. 3, p. 3566, sec. 60.
RHODE ISLAND....	General Laws 1909, ch. 92, sec. 1 (item 3).
SOUTH CAROLINA...	Code 1912 (Civil), sec. 1530 (item 3).
SOUTH DAKOTA....	Revised Codes 1903 (Political), sec. 2764 (item 3).
UTAH.....	Compiled Laws 1917, sec. 1400x44.
WISCONSIN.....	Statutes 1917, sec. 1500 (item 3).

WORKMEN'S COMPENSATION LAWS.—Those specifically applied to illegitimate or to acknowledged illegitimate children in defining children entitled to the benefits of the law.

HAWAII.....	Laws 1915, act 221, sec. 10, as amended by Laws 1917, act 227.
IDAHO.....	Laws 1917, ch. 81, sec. 14.
INDIANA.....	Laws 1915, ch. 106, sec. 38.
KENTUCKY.....	Laws 1916, ch. 33, sec. 14.
LOUISIANA.....	Marr's Annotated Revised Statutes 1915, sec. 3967, as amended by Laws 1918, No. 38.
MONTANA.....	Laws 1915, ch. 96, sec. 6p.
NEVADA.....	Laws 1913, ch. 111, sec. 26, as amended by Laws 1917, ch. 233.
NEW JERSEY.....	Laws 1911, ch. 95, sec. 12, as amended by Laws 1914, ch. 244.
NEW MEXICO.....	Laws 1917, ch. 83, sec. 12 (j and k).
NEW YORK.....	Birdseye Consolidated Laws (2d ed.) 1917, vol. 8, Workmen's Compensation, ch. 67, sec. 3.
OREGON.....	Laws 1913, ch. 112, sec. 14, as amended by Laws 1917, ch. 288.
PORTO RICO.....	Laws 1918, No. 10, sec. 3.
VERMONT.....	General Laws 1917, sec. 5759.
VIRGINIA.....	Laws 1918, ch. 400, sec. 40.
WASHINGTON.....	Remington's Codes and Statutes 1915, sec. 6604-3, as amended by Laws 1917, ch. 120, sec. 1.

MISCELLANEOUS.

MISSISSIPPI.....Code 1906, sec. 721, as amended by Laws 1914, ch. 214
(Death by wrongful act—illegitimate child may recover for death of mother).

SOUTH CAROLINA...Code 1912 (Civil), secs. 3454, 3562, 3575 (Death by
wrongful act—illegitimate child may recover for
death of mother).

SUPPORT LEGISLATION.

ILLEGITIMACY PROCEEDINGS.—Legislation for the support of the illegitimate
child; proceedings against the father.

ALABAMA.....Code 1907, secs. 6364-6388.

ALASKA.....(No provisions.)

ARIZONA.....Revised Statutes 1913, Penal Code, secs. 369-381.

ARKANSAS.....Kirby and Castle's Digest 1916, secs. 587-600, sec. 1493
(Jurisdiction); Constitution art. 7, sec. 28 (Jurisdic-
tion).

CALIFORNIA.....Deering's Civil Code 1915, sec. 196a (Support of illegiti-
mate child); secs. 138-140 (Provisions for enforcement
of section 196a).

COLORADO.....Revised Statutes 1908, secs. 353-358.

CONNECTICUT.....General Statutes 1918, secs. 6006-6015, 6160.

DELAWARE.....Revised Code 1915, secs. 3072-3076; 3077, as amended
by Laws 1917, ch. 228; 3078-3088 (Secs. 546, 3804,
3992, 4001-4003, 4237, 4466 constitute certain juris-
dictional and other provisions).

DISTRICT OF CO-

LUMBIA.....37 U. S. Statutes at Large, p. 134, ch. 171, secs. 1-8.

FLORIDA.....General Statutes 1906, secs. 2598-2602.

GEORGIA.....Park's Annotated Code 1914 (Penal), secs. 682, 1330-1336.

HAWAII.....Revised Laws 1915, secs. 2272-2273, 2478, 3005-3015.

IDAHO.....(No provisions.)

ILLINOIS.....Hurd's Revised Statutes 1917, ch. 17, secs. 1-17.

INDIANA.....Burns' Annotated Statutes 1914, secs. 1013-1034, 1063,
1382 (10), 8377-8380.

IOWA.....Code 1897, secs. 5629-5636.

KANSAS.....General Statutes 1915, secs. 5117-5138.

KENTUCKY.....Statutes 1915, secs. 166-181.

LOUISIANA.....Merrick's Revised Civil Code 1912, arts. 210, 239-245.
(See also "CARE AND SUPPORT." Louisiana has no
law conforming to provisions in other States.)

MAINE.....Revised Statutes 1916, ch. 85, sec. 59. Ch. 102, secs.
1-6; 7, as amended by Laws 1917, ch. 84; 8-9; 10, as
amended by Laws 1917, ch. 158, sec. 11.

MARYLAND.....Annotated Code, vol. 3 (1914), art. 12, secs. 1-12.

MASSACHUSETTS...Revised Laws 1902, ch. 84, sec. 4, as amended by Laws
1909, ch. 208.

Laws 1913, ch. 563, secs. 1-7; 8, as added by Laws
1918, ch. 199.

MICHIGAN.....Compiled Laws 1915, secs. 7753-7763, 7794, 15700.

ILLEGITIMACY PROCEEDINGS—Continued.

- MINNESOTA.....General Statutes 1913, secs. 3214-3224, as amended by
Laws 1917, ch. 210, sec. 1; 3225a-3225e, as added by
Laws 1917, ch. 210, sec. 1 (sec. 2: Constitutionality);
8703a, as added by Laws 1917, ch. 211.
Laws 1917, ch. 194, secs. 2-5; ch. 212, sec. 10.
- MISSISSIPPI.....Code 1906, secs. 268-283.
- MISSOURI.....(No provisions.)
- MONTANA.....Revised Codes 1907, secs. 9576-9583.
- NEBRASKA.....Revised Statutes 1913, secs. 357-364.
- NEVADA.....Revised Laws 1912, secs. 765-766.
- NEW HAMPSHIRE...Public Statutes 1901, ch. 87, secs. 1; 2, Supplement 1913,
p. 161; 3-12; ch. 204, sec. 4.
- NEW JERSEY.....Compiled Statutes 1910, vol. 1, p. 184, secs. 1-34; vol.
3, p. 3981, sec. 35; p. 4004, sec. 133.
Laws 1912, ch. 103, secs. 1-3.
- NEW MEXICO.....(No provisions.)
- NEW YORK.....Birdseye Consolidated Laws (2d ed.) 1917, vol. 4,
Judiciary Law, ch. 30, sec. 4; vol. 5, Penal Law, ch.
40, sec. 1843; vol. 6, Poor Law, ch. 42, secs. 60-75;
vol. 7, Second Class Cities, ch. 53, sec. 185.
Bender's Code of Criminal Procedure 1918, secs.
838-886.
- NORTH CAROLINA...Pell's Revisal 1908, secs. 252-264, 1915-1919.
- NORTH DAKOTA.....Compiled Laws 1913, secs. 10483-10500.
Laws 1917, ch. 70, secs. 1-3.
- OHIO.....General Code 1910, secs. 12110-12135.
- OKLAHOMA.....Revised Laws 1910, secs. 1816, as amended by Laws
1917, ch. 119 (Jurisdiction of County Court); 3885,
4401-4406; 4407, as amended by Laws 1915; ch. 91,
4408-4411.
- OREGON.....Laws 1917, ch. 48, secs. 1-14.
- PENNSYLVANIA.....Stewart's Purdon's Digest 1700-1903, vol. 1, p. 955, secs.
247-248; Supplement 1905-1915, vol. 5, p. 5852,
secs. 52-57.
Laws 1917, No. 145, secs. 1-3.
- PORTO RICO.....Revised Statutes and Codes 1911, secs. 3263-3267. (No
provisions conforming to laws in the States.)
- RHODE ISLAND.....General Laws 1909, ch. 95, secs. 1-3; 4-5, as amended
by Laws 1915, ch. 1215; 6-8; 9, as amended by Laws
1915, ch. 1215; 10-11; 12-14, as amended by Laws
1915, ch. 1215, 15-18.
- SOUTH CAROLINA...Code 1912 (Criminal), secs. 691-695; (Civil), sec. 974.
- SOUTH DAKOTA.....Revised Codes 1903 (Civil), secs. 107-109. (See also
"LEGITIMACY, PRESUMPTION OF").
Revised Codes 1903 (Civil Procedure), secs. 807-816.
- TENNESSEE.....Thompson's Shannon's Code 1918, secs. 2707, 6040,
6931 (1), 7332-7353.
- TEXAS.....(No provisions.)
- UTAH.....Compiled Laws 1917, secs. 380-395.

ILLEGITIMACY PROCEEDINGS—Continued.

VERMONT.....General Laws 1917, secs. 2343-2351, 2417-2419, 3608-3632. (For jurisdiction of city and municipal courts, see Laws of 1908, No. 62.)

VIRGINIA.....(No provisions.)

WASHINGTON.....(No provisions.)

WEST VIRGINIA.....Barnes' Code 1916, ch. 80, secs. 1-6.

WISCONSIN.....Statutes 1917, secs. 750.2, 1530-1533, 1533a-1533b, 1533m, 1534-1542.

WYOMING.....Compiled Statutes 1910, secs. 6371-6394.

CARE AND SUPPORT.—Legal liability of parent to support child; support by public authorities, etc.

CALIFORNIA.....Deering's Civil Code 1915, sec. 196 (apparently applicable to mother who, under sec. 200, has custody of the child), 196a. (See also "ILLEGITIMACY PROCEEDINGS.")

Deering's Political Code, sec. 2290: Care and Support of Foundlings.

CONNECTICUT.....General Statutes 1918, sec. 1795.

DELAWARE.....Revised Code 1915, sec. 3034.

GEORGIA.....Park's Annotated Code 1914 (Civil), sec. 3027; (Penal), sec. 379.

HAWAII.....Revised Laws 1915, sec. 2995.

IOWA.....Code 1897, secs. 2216, 2250.

LOUISIANA.....Merrick's Revised Civil Code 1912, arts. 239-245.

MINNESOTA.....Laws 1917, ch. 194, secs. 2-5; ch. 397, sec. 1. (Juvenile court laws: Illegitimate classed as "dependent.")

MONTANA.....Revised Codes 1907, sec. 3741.

NORTH DAKOTA.....Laws 1917, ch. 70, sec. 1.

OKLAHOMA.....Revised Laws 1910, sec. 4367.

PORTO RICO.....Revised Statutes and Codes 1911, secs. 3266-3267, 3283-3290.

MOTHERS' PENSIONS.—By the end of 1918, 36 States had adopted mothers' pension laws. One of these States—Michigan—specifically makes provision for aid to "unmarried" mothers. In Massachusetts, New Hampshire, North Dakota, and Utah the laws apply to "all mothers," but the conditions imposed as to character might exclude the mother of a child of illegitimate birth. Under the language of the laws of the other States listed it would seem possible to extend aid to the mother of a child of illegitimate birth also; restrictions as to character are imposed in these States also. In 26 States the mothers of children of illegitimate birth are not included.

COLORADO.....Revised Statutes 1908, sec. 558, as amended by Laws 1913, p. 694.

MASSACHUSETTS.....Laws 1913, ch. 763, secs. 1-4.

MICHIGAN.....Compiled Laws 1915, sec. 2017.

MISSOURI.....Laws 1917, p. 151, secs. 1-10.

MONTANA.....Laws 1917, ch. 83, secs. 1-7 (apparently supersedes Laws 1915, ch. 86).

MOTHERS' PENSIONS—Continued.

NEBRASKA.....	Revised Statutes 1913, sec. 1250. Laws 1915, ch. 187, secs. 1-4.
NEVADA.....	Revised Laws 1912, sec. 739, as amended by Laws 1913, ch. 133. Laws 1915, ch. 131, secs. 1; 2, as amended by Laws 1917, ch. 11, secs. 3-8.
NEW HAMPSHIRE....	Laws 1915, ch. 132, secs. 1-10.
NORTH DAKOTA.....	Laws 1915, ch. 185, secs. 1-8.
UTAH.....	Compiled Laws 1917, secs. 3960-3968.

ABANDONMENT, DESERTION, NONSUPPORT.—First hereunder are given the laws specifically applying to illegitimate children; and second, laws specifying "any parent," "every person," "his or her child," etc., since this terminology would appear to apply both to the putative father and the mother of an illegitimate child; but certain judicial authorities have decided that the putative father is not included. Only the more advanced type of family desertion and nonsupport legislation has been included.

LAWS SPECIFICALLY APPLYING TO ILLEGITIMATE CHILDREN.

CALIFORNIA.....	Deering's Penal Code 1915, secs. 270, as amended by Laws 1917, ch. 168; 270b, 270d, 271, 271a, 273h.
COLORADO.....	Laws 1911, ch. 179, secs. 1-10.
DELAWARE.....	Revised Code 1915, secs. 3034-3046, 3088.
ILLINOIS.....	Hurd's Revised Statutes 1917, ch. 58, secs. 1-3.
MASSACHUSETTS....	Laws 1911, ch. 456, secs. 1-4; 5-6, as amended by Laws 1918, ch. 257, secs. 453-454; 7; 8, as amended by Laws 1912, ch. 310. (Made applicable by Laws 1913, ch. 563, sec. 7.) Laws 1917, ch. 163, as amended by Laws 1918, ch. 257, sec. 455.
MINNESOTA.....	General Statutes 1913, secs. 8666-8668 as amended, and 8668A as added, by Laws 1917, ch. 213. (Made applicable by sec. 3218, as amended by Laws 1917, ch. 210. (See "ILLEGITIMACY PROCEEDINGS."))
NEBRASKA.....	Revised Statutes 1913, secs. 8614-8616.
NEVADA.....	Revised Laws 1912, sec. 766.
NEW HAMPSHIRE....	Public Statutes 1901, Supplement 1913, p. 518 (1913, ch. 57, sec. 1).
OHIO.....	General Code 1910, secs. 13008-13017; 13018, as amended by Laws 1913, p. 913; 13019, as amended by Laws 1911, p. 115, 13020-13021.
PENNSYLVANIA....	Laws 1917, No. 145, secs. 1-3; No. 290, secs. 1-6.
WEST VIRGINIA.....	Laws 1917, ch. 51, secs. 1-9.
WISCONSIN.....	Statutes 1917, secs. 4587c.1 to 4587c.6, 4587d.

LAWS APPARENTLY APPLYING TO ILLEGITIMATE CHILDREN.

ALABAMA.....	Laws 1915, p. 560, secs. 1-11.
ALASKA.....	Laws 1915, ch. 12, secs. 1-3.
ARIZONA.....	Revised Statutes 1913, Penal Code secs. 249, 251.
ARKANSAS.....	Kirby and Castle's Digest 1916, secs. 1589-1590 (1650-1651 not applicable).

ABANDONMENT, DESERTION, NONSUPPORT—Continued.

CONNECTICUT.....General Statutes 1918, sec. 6416.

DISTRICT OF CO-

LUMBIA.....34 U. S. Statutes at Large, p. 86, ch. 1131, secs. 1-3 (see also Code 1911, p. 417). (The term "any person * * * applies only to parents of lawful children, and not to parents of bastards."—*Moss v. United States*, 29 D. C. App. 188.)

FLORIDA.....Laws 1913, ch. 6483, sec. 1.

HAWAII.....Revised Laws 1915, sec. 2970, as amended by Laws 1915, act 100; sec. 2971.

IDAHO.....Revised Codes 1908, secs. 6781-6782, as amended by Laws 1915, ch. 83.

ILLINOIS.....Hurd's Revised Statutes 1917, ch. 68, secs. 27-37 (secs. 24-26 are superseded by a later act).

INDIANA.....Burns' Annotated Statutes 1914, secs. 2635; 2635a, as amended by Laws 1915, ch. 179; 2635b.

KANSAS.....General Statutes 1915, secs. 3410-3416.

KENTUCKY.....Laws 1916, ch. 6, secs. 1-3.

MAINE.....Revised Statutes 1916, ch. 120, secs. 38-41.

MICHIGAN.....Compiled Laws 1915, secs. 7789-7793.

MISSOURI.....Revised Statutes 1909, sec. 4495, as amended by Laws 1911, p. 193.

MONTANA.....Revised Codes 1907, sec. 8346, as amended by Laws 1917, ch. 78.
Laws 1917, ch. 77.

NEVADA.....Laws 1913, ch. 272, secs. 1-2.

NEW JERSEY.....Laws 1916, ch. 45, sec. 1.
Laws 1917, ch. 61, secs. 1-5.

NEW YORK.....Birdseye Consolidated Laws (2d ed.) 1917, vol. 5, Penal Law, ch. 40, secs. 480-481. (The term "parent" does not include the putative father of an illegitimate child.—*People v. Fitzgerald* (1915), 167 App. Div. 85, 152 N. Y. Supp. 641.)

NORTH DAKOTA.....Compiled Laws 1913, secs. 9595-9600.

OKLAHOMA.....Laws 1915, ch. 149, secs. 1-2.

OREGON.....Laws 1913, ch. 244, secs. 1, as amended by Laws 1917, ch. 136; 2-8.

TENNESSEE.....Thompson's Shannon's Code 1918, sec. 4249a-11 et seq. (The phrase "any person legally chargeable" does not appear applicable.)

TEXAS.....Laws 1913, ch. 101, secs. 1-7.

UTAH.....Compiled Laws 1917, secs. 8112-8115.

VERMONT.....General Laws 1917, secs. 3536-3543.

VIRGINIA.....Code 1904, Supplement 1916, p. 1030 (Laws 1915, ch. 114).
Laws 1918, ch. 416, secs. 1-11.

WASHINGTON.....Remington's Codes and Statutes 1915, secs. 5933-1 to 5933-3.

WYOMING.....Laws 1915, ch. 72, secs. 1-6 (apparently supersede Laws 1913, ch. 81).

REFERENCE INDEX BY STATES.

(Citations consecutive.)

ALABAMA:

Code 1907, sections—

711 as amended by Laws 1911 p. 116.	Births, registration of.
3760-3761.	Inheritance.
3807.	Marriage and divorce.
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4367.....	Care and support.
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Laws 1917, ch. 288.

Laws 1913, ch. 244, sec. 1 as amended by Abandonment, desertion, nonsupport.

Laws 1917, ch. 136; secs. 2-8.

Laws 1915, ch. 268, sec. 13 as amended by Births, registration of.

Laws 1917, ch. 384.

Laws 1917, ch. 48, secs. 1-14.....Illegitimacy proceedings.

Sec. 14.....Inheritance; legitimation, methods of.

PENNSYLVANIA:

Stewart's Purdon's Digest 1700-1903—

Vol. 1, p. 901, sec. 3.....Births and deaths, concealment of.

P. 955, secs. 247-248.....Illegitimacy proceedings.

P. 1247, sec. 32.....Marriage and divorce.

Vol. 2, p. 2004, secs. 52 (in part re- Inheritance; name.

pealed by Laws 1917, No. 192, pp.

444-445), 55.

Vol. 3, p. 2445, sec. 31 (in part re- Legitimation, methods of.

pealed by Laws 1917, No. 192, pp.

443-444).

P. 2446, secs. 32-33.....Marriage and divorce.

P. 3197, sec. 4.....Name.

P. 3566, sec. 60.....Residence.

Supplement 1905-1915—

Vol. 5, p. 5852, secs. 52-57 (Laws 1907, Illegitimacy proceedings.

No. 293, p. 429).

Vol. 6, p. 7303, sec. 20 (Laws 1915, No. Births, registration of.

402, p. 900, sec. 14).

Laws 1917, No. 145, secs. 1-3.....Illegitimacy proceedings; abandonment, desertion, nonsupport.

No. 192, secs. 14-15; 27-28.....Inheritance.

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1530 (item 3).....	Residence.
3454, 3562, 3575.....	Inheritance.
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3798.....	Adoption; inheritance.

Code 1912 (Criminal), secs. 691-695.....Illegitimacy proceedings.

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WEST VIRGINIA:

Barnes' Code 1916—

Ch. 63 sec. 8.....	Marriage and divorce.
Ch. 78, sec. 5.....	Inheritance.
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Ch. 80, secs. 1-6.....	Illegitimacy proceedings.
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4; 5 as amended by Laws 1917, ch. 63.....	Juvenile courts.
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1022-30 (items 5 and 21).....	Name; births, registration of.
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5739 as amended by Laws 1915, ch. 143.....	Custody; guardianship.
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Laws 1915, ch. 72, secs. 1-6.....	Abandonment, desertion, nonsupport.

CODES, REVISIONS, OR COMPILATIONS USED.

Alabama.....	Code 1907.
Alaska.....	Compiled Laws 1913.
Arizona.....	Revised Statutes 1913.
Arkansas.....	Kirby and Castle's Digest 1916.
California.....	Deering's General Laws 1915. Deering's Penal Code 1915 Deering's Civil Code 1915. Deering's Code of Civil Procedure 1915. Deering's Political Code 1915.
Colorado.....	Revised Statutes 1908.
Connecticut.....	General Statutes 1918.
Delaware.....	Revised Code 1915.
District of Columbia.....	Code of Law 1911. U. S. Statutes at Large.
Florida.....	General Statutes 1906.
Georgia.....	Park's Annotated Code 1914. Supplement 1917.
Hawaii.....	Revised Laws 1915.
Idaho.....	Revised Codes 1908.
Illinois.....	Hurd's Revised Statutes 1917.
Indiana.....	Burns' Annotated Statutes 1914.
Iowa.....	Code 1897, Supplements 1913 and 1915.
Kansas.....	General Statutes 1915.
Kentucky.....	Statutes 1915.
Louisiana.....	Marr's Annotated Revised Statutes 1915. Merrick's Revised Civil Code 1912.
Maine.....	Revised Statutes 1916.
Maryland.....	Annotated Code 1911 and 1914.
Massachusetts.....	Revised Laws 1902.
Michigan.....	Compiled Laws 1915.
Minnesota.....	General Statutes 1913.
Mississippi.....	Code 1906.
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Montana.....	Revised Codes 1907.
Nebraska.....	Revised Statutes 1913.
Nevada.....	Revised Laws 1912.
New Hampshire.....	Public Statutes 1901, Supplement 1901-1913.
New Jersey.....	Compiled Statutes 1910.
New Mexico.....	Statutes 1915.
New York.....	Birdseye Consolidated Laws (2d ed.) 1917. Parson's Code of Civil Procedure 1918. Bender's Code of Criminal Procedure 1918.
North Carolina.....	Pell's Revisal 1908. Supplement 1913-1915.
North Dakota.....	Compiled Laws 1913.
Ohio.....	General Code 1910.

Oklahoma.....	Revised Laws 1910.
Oregon.....	Lord's Oregon Laws 1910.
Pennsylvania.....	Stewart's Purdon's Digest 1700-1903 volumes 1-4. Supplement 1905-1915, volumes 5-7.
Porto Rico.....	Revised Statutes and Codes 1911.
Rhode Island.....	General Laws 1909.
South Carolina.....	Code 1912.
South Dakota.....	Revised Codes 1903.
Tennessee.....	Thompson's Shannon's Code 1913.
Texas.....	Revised Statutes 1911.
Utah.....	Compiled Laws 1917.
Vermont.....	General Laws 1917.
Virginia.....	Code 1904 and Supplements 1910 and 1916.
Washington.....	Remington's Codes and Statutes 1915.
West Virginia.....	Barnes' Code 1916.
Wisconsin.....	Statutes 1917.
Wyoming.....	Compiled Statutes 1910.

TEXT OF ILLEGITIMACY LAWS OF THE
UNITED STATES

TEXT OF ILLEGITIMACY LAWS OF THE UNITED STATES.¹

The following compilation of statutes includes the laws of the States and Territories of the United States relating to illegitimate children.

For purposes of comparison the provisions on illegitimacy of the French, German, and Swiss codes are also given (pp. 245-256).

The text of the illegitimacy laws of the United States, the tabular analysis thereof, and the comment regarding this legislation are based upon the laws in effect January 1, 1918. The foreign laws are given as they stood on December 31, 1918.

Laws of the United States relating to illegitimacy passed during the year 1918 are presented in an appendix (p. 259). They involve certain changes in Louisiana, Massachusetts, Porto Rico, and Virginia; the amendment to the inheritance law in New Jersey does not change the provision which relates to the illegitimate child.

With the exception of Massachusetts, where the law is amended by providing that bail or deposits forfeited in illegitimacy proceedings may be applied to the support of the child, no illegitimacy support legislation was enacted during the year 1918. The laws noted in the other States relate to the registration of illegitimate births and to the rights of illegitimate children under workmen's compensation laws.

ALABAMA.

Criminal Code, 1907.

SECTION 6364. *Reputed father of bastard arrested on complaint of mother—Warrant.*—
When any single woman, pregnant with or delivered of a bastard child, makes complaint on oath to any justice of the county where she is so pregnant or delivered, accusing any one of being the father of such child, such justice must issue a warrant against such person, and cause him to be brought before him, and may admit him to bail to appear to answer such charge before him.

SEC. 6365. *Justice to summon witnesses.*—The justice of the peace must, on the application of the complainant, or the accused, issue subpoenas for witnesses.

SEC. 6366. *Examination; if probable cause, held under bond to appear at court to answer.*—Such justice must, in the presence of the accused, examine the complainant and her witnesses, and may examine also the accused and his witnesses, respecting the charge; and, if it appears that there is probable cause to believe that the accused is guilty of the charge, must require him to enter into bond, with sufficient surety, in a sum not exceeding one thousand dollars, to be approved by such justice, payable to the State of Alabama, and conditioned that the accused will appear at the next term of the circuit or city court or court of like jurisdiction of such county.

SEC. 6367. *Justice to return bond to circuit or city court.*—Such justice must return such bond and complaint to the clerk of the circuit or city court, or court of like jurisdiction, by the first day of the term at which the accused is bound to appear.

¹ The cut-in title appearing at the beginning of a section covers the subject matter contained in the succeeding sections until a new cut-in title occurs.

SEC. 6368. *Reputed father imprisoned on default of bond.*—On the failure to give bond as required, the justice must commit the accused to jail until he gives the same, or is otherwise discharged by law.

SEC. 6369. *Clerk to issue subpoenas.*—The clerk of the court, after return of the bond, must, on the application of the complainant or accused, issue subpoenas for witnesses.

SEC. 6370. *State and accused parties to record.*—The proceedings in bastardy are conducted in the name of the State as plaintiff, and the accused as defendant; but no proceeding shall be instituted under this chapter after the lapse of one year from the birth of the child, unless the defendant has, in meanwhile, acknowledged or supported the child.

SEC. 6371. *Forfeiture of bond—Conditional judgment, and writ of arrest.*—If the accused does not appear, his bond is forfeited, and a conditional judgment may be rendered thereon, and the like proceedings had as in case of the forfeiture of bonds for indictable offenses; and the clerk must issue a writ of arrest, as in criminal cases on indictment found.

SEC. 6372. *Rearrest—Defendant discharged on bond of one thousand dollars.*—The sheriff, on arresting the defendant on such writ of arrest, may discharge him on his giving bail for his appearance at court, in the sum of not more than one thousand dollars, to answer a complaint of bastardy; and if such bond is forfeited, a conditional judgment may be rendered thereon, a writ of arrest issue, and the same proceedings had as often as may be necessary.

SEC. 6373. *On appearance, issue made up.*—The court, on the appearance of the accused, must, if he demand it, cause an issue to be made up, to ascertain whether he is the real father of the child or not.

SEC. 6374. *Challenge of jurors.*—On a trial of the issue before a jury, each party has the right to challenge six jurors peremptorily.

SEC. 6375. *Either party may be examined.*—On the trial of such issue, the accuser and accused are each entitled to their oath.

SEC. 6376. *On conviction, judgment for costs, and bond required to support and educate child.*—On the trial of such issue, if found against the defendant, judgment must be rendered against him for the costs, and he must also be required to enter into bond with surety, to be approved by the judge, in the sum of one thousand dollars, payable to the State, and conditioned to pay such sum, not exceeding fifty dollars a year, as the court may prescribe, on the first Monday in January in each year, for ten years, to the judge of probate of the county, for the support and education of the child, which bond must be recorded.

SEC. 6377. *Judgment on failure to give bond.*—On failure to give such bond, the court must render judgment against the defendant for such sum as, at legal interest, will produce the amount directed to be paid yearly; and he must also be sentenced to hard labor for the county for one year, unless in the meantime he executes the bond required or pays the judgment and costs.

SEC. 6378. *Execution on bond issues on failure to make payments.*—If such bond is given, on failure to make any of the payments required, to the judge of probate, on the first Monday in January in each year, execution may issue for such amount against all the obligors to the bond, on the application of the judge of probate, which, when collected, must be paid to him.

SEC. 6379. *Bond; when given after the adjournment of court.*—If such bond is not given before the adjournment of court, it may be given at any time before the term of imprisonment expires, and in such case, must be approved by the judge of probate and recorded and filed in the office of the clerk of the court, and execution may issue thereon from time to time, as under the provisions of the preceding section, and the amount, when collected, paid to the judge of probate.

SEC. 6380. *Defendant discharged on filing bond, paying costs, etc.*—In the case provided for in the preceding section, the defendant must be discharged from imprisonment on payment of the costs, and the judgment against him is discharged.

SEC. 6381. *Proceedings when defendant is not found.*—If the accused does not appear, after the return of two writs of arrest against him "not found" by the sheriff of the county in which the court to which the complaint is returned is held, the facts stated in the complaint must be taken as admitted, and judgment rendered against the accused as provided for by section 6377; and at any time before the payment of such judgment, the defendant may be arrested by a writ of arrest thereon, directed to the sheriff, commanding him to take the defendant and deliver him to the proper authorities for the execution of the judgment.

SEC. 6382. *Discharged from imprisonment on paying judgment or giving bond.*—In the case provided for in the preceding section, the defendant can be discharged from imprisonment by the payment of the judgment, or executing bond in conformity with the provisions of section 6376.

SEC. 6383. *Money collected on bond applied to support of child.*—The amount collected on the forfeiture of any bond for the appearance of the defendant, and on the judgment rendered against him, must be paid into the county treasury; and the interest thereon, not exceeding the yearly sum directed to be paid by the court, must be paid to the judge of probate for the support and education of the child.

SEC. 6384. *Such payment not made after giving bond.*—But such payment must not be made after the defendant gives the bond required by section 6376.

SEC. 6385. *Guardian appointed to receive child's money.*—The judge of probate must appoint a guardian for such child, and upon his giving bond and security as other guardians, the amount received by the judge of probate must be paid to him.

SEC. 6386. *Death of child or marriage of parents; effect of.*—If the child is not alive or if, being born alive, it dies, or on the marriage of the mother and reputed father, on the ascertainment of such facts by the judge of probate, on motion to the court and proof thereof, an entry of record must be made thereof, and the bond be declared void, the judgment vacated, the defendant discharged, and the portion of such judgment paid into the county treasury must be paid, on the certificate of the clerk of the circuit court of the vacation of such judgment, to the defendant.

SEC. 6387. *Complainant pays costs on verdict for defendant.*—In case the issue provided for by section 6373 is found against the complainant, judgment for costs must be rendered against her.

SEC. 6388. *Either party may appeal—Security for costs, execution, etc.*—Either party may appeal to the supreme court within thirty days after judgment. If the appeal is taken by the State, the complainant must give security for the costs of the appeal if the judgment is affirmed: and the defendant, also, if the appeal is taken by him, must give the same security, to be approved by the clerk of the circuit court, the names of the sureties certified with the record to the appellate court, and execution may issue for the costs of the appeal against them from such court, if the judgment of the circuit court is affirmed. But when either the complainant or defendant makes affidavit that she or he is unable, after diligent effort, to make the appeal bond, they may appeal without any bond.

Civil Code, 1907.

SEC. 3760. *Bastards.*—Every illegitimate child is considered as the heir of his mother, and inherits her estate in whole or in part, as the case may be, in like manner as if born in lawful wedlock.

SEC. 3761. *Who inherit from illegitimate child.*—The mother or kindred of an illegitimate child on the part of the mother, are, in default of children of such illegitimate child, or their descendants, entitled to inherit his estate.

SEC. 3807. *Divorce for pregnancy bastardizes issue.*—When a divorce is granted the husband for the pregnancy of the wife at the time of the marriage, the issue is thereby bastardized.

SEC. 4880. *When issue not illegitimate.*—The issue of any incestuous marriage, before void marriage, the same is annulled, shall not be deemed illegitimate.

SEC. 5199. *The marriage of the parents legitimates the children.*—The marriage of the mother and reputed father of a bastard child renders it legitimate if recognized by the father as his child.

SEC. 5200. *Proceedings to legitimate bastard children; effect of.*—The father of a bastard child may legitimate it, and render it capable of inheriting his estate, by making a declaration in writing, attested by two witnesses, setting forth the name of the child proposed to be legitimated, its sex, supposed age, and the name of the mother, and that he thereby recognizes it as his child, and capable of inheriting his estate, real and personal, as if born in wedlock; the declaration being acknowledged by the maker before the judge of probate of the county of his residence, or its execution proved by the attesting witnesses, filed in the office of the judge of probate, and recorded on the minutes of his court, has the effect to legitimate such child.

SEC. 5201. *Child's name changed at same time.*—The father may, at the same time, change the name of such child, stating in his declaration the name it is then known by, and the name he wishes it afterwards to have.

NOTE ON INCESTUOUS MARRIAGES.—The law applies to illegitimate as well as legitimate children and other relations. (Sec. 4877.)

NOTE ON BIRTH REGISTRATION.—Certificate specifies whether child born in lawful wedlock. (Sec. 711, as amended by Laws 1911, p. 116.)

ALASKA.

Compiled Laws, 1913.

SECTION 438. Illegitimate children become legitimate by the subsequent marriage
Legitimation. of their parents to each other; * * *

SEC. 446. The power of the mother to bind her children, whether legitimate or
 illegitimate, shall cease in case of her subsequent marriage, and
Apprenticeship. shall not be exercised during the continuance of such marriage,

either by herself or her husband.

SEC. 597. An illegitimate child shall be considered an heir of its mother, and shall
 inherit or receive her property, real or personal, in whole or in
Inheritance; void marriage. part, as the case may be, in like manner as if such child had been
 born in lawful wedlock; but such child shall not be entitled to
 inherit or receive, as representing his mother, any property, real or personal, of the
 kindred, either lineal or collateral, of such mother: *Provided*, When the parents of
 such child have formally married, such child shall not be regarded as illegitimate
 within the meaning of this code, although such formal marriage shall be adjudged
 to be void.

SEC. 598. If an illegitimate child shall die intestate, without leaving a widow,
 husband, or lawful issue, the property, real and personal, of such
Inheritance. intestate shall descend to or be received by the mother; but if
 after the birth of an illegitimate child the parents thereof shall intermarry, such child
 shall be considered legitimate to all intents and purposes.

SEC. 2005. That if any woman shall conceal the death of any issue of her body, so
 that it may not be known whether such issue was born alive or
Concealment of births and deaths. not, or whether it was not murdered, such woman, upon conviction
 thereof, shall be punished by imprisonment in the peniten-
 tiary not less than six months nor more than one year, or by imprisonment in the
 county jail not less than three months nor more than one year.

SEC. 2006. That when a woman is indicted for the murder of her bastard infant,
 she may also be charged in the same indictment with the crime defined in the last
 preceding section, and if she shall be found not guilty of the charge of murder she
 may be found guilty of the crime defined in such section and punished accordingly.

Laws of 1917, ch. 56.

An act relating to and regulating marriage and marriage license in the Territory of Alaska, and provid-
 ing penalties for the violation of same.

SEC. 12. All marriages hereafter contracted in violation of any of the requirements
 of section one (1) of this act shall be null and void, except as
Marriage. hereinafter provided: *Provided*, That the parties to any such void
 marriage may at any time validate such marriage by complying with the requirements
 of this act, and the issue thereof, if any, shall thereupon become legitimate, as here-
 inafter provided.

SEC. 14. If a person during the lifetime of a husband or wife with whom the mari-
 riage is in force, enters into a subsequent marriage contract in accordance with the
 provisions of section one (1) of this act, and the parties thereto live together there-
 after as husband and wife, and such subsequent marriage contract was entered into
 by one of the parties in good faith, in the full belief that the former husband or wife
 was dead, or that the former marriage had been annulled, or dissolved by a divorce,
 or without knowledge of such former marriage, they shall, after the impediment to
 their marriage, has been removed by death, or divorce of the other party to such former
 marriage, if they continue to live together as husband and wife in good faith on the
 part of one of them, be held to have been legally married from and after the removal
 of such impediment, and the issue of such subsequent marriage shall be considered
 as the legitimate issue of both parents.

NOTE ON BIRTH REGISTRATION.—Certificate states whether child is legitimate or
 illegitimate. (Laws 1913, ch. 35, sec. 2.)

ARIZONA.

Revised Statutes of Arizona, 1913.

Civil Code.

SECTION 1103. Where a man having by a woman a child or children, afterward intermarry with such woman, such child or children shall thereby be legitimized and made capable of inheriting his estate. The issue also of marriages deemed null in law shall nevertheless be legitimate.

Legitimation; void marriages.

SEC. 1104. Bastards shall be capable of inheriting from and through their mothers, and of transmitting estates, and shall also be entitled to distributive shares of the personal estate of any of their kindred, on the part of their mother, in like manner as if they had been lawfully begotten of such mother.

Inheritance.

SEC. 1118. A guardian of the person or estate, or both, of a child born, or likely to be born, may be appointed by will or by deed, to take effect upon the death of the parent appointing:

Guardianship.

(2) If the child is illegitimate, by the mother.

SEC. 1198. The father of an illegitimate child, by publicly acknowledging it as his own, receiving it as such, with the consent of his wife, if he is married, into his family, and otherwise treating it as if it were a legitimate child, thereby adopts it as such; and such child is thereupon deemed for all purposes legitimate from the time of its birth. The foregoing provisions of this chapter do not apply to such an adoption.

Legitimation

SEC. 3840. When any unmarried persons who have heretofore lived together as husband and wife, and who have had a child or children born out of wedlock, shall have intermarried with each other, such child or children so born out of wedlock, shall be and the same are hereby declared to be legitimate, and entitled to all the rights and privileges of children born in wedlock.

SEC. 3864. A divorce from the bonds of matrimony shall not in any wise affect the legitimacy of the children thereof; and either party may, after the dissolution of the marriage, marry again. (As amended by Laws 1917, ch. 54.)

Divorce.

NOTE ON INCESTUOUS MARRIAGES.—The law applies to illegitimate children and relations. (Sec. 3838.)

NOTES ON BIRTH REGISTRATION.—The certificate of birth states whether the child is legitimate or illegitimate. (Sec. 4418.)

Penal Code.

SEC. 369. On complaint being made to a justice of the peace by any woman who is delivered of a bastard child, or pregnant with a child which, if born alive, might be a bastard, accusing any person of being the father of such child, the justice shall take the complaint in writing, under her oath, and thereupon shall issue his warrant, directed to the sheriff or any constable of his county, commanding him forthwith to bring such accused person before him to answer such complaint; which warrant may be executed anywhere within this State.

Illegitimacy proceedings

Pro-

SEC. 370. The justice shall enter an action in his docket, in which the State shall be plaintiff, and the accused defendant, and shall make such other entries as are required in criminal actions. On the return of the warrant with the accused, the justice shall examine under oath the complainant, and such other witnesses as may be produced by the parties, respecting the complaint, and shall reduce such examination to writing.

SEC. 371. If the defendant pays, or secures to be paid, to the complainant such sum of money or other property as she, with the written approval of the board of supervisors of the county, may agree to receive in full satisfaction, a memorandum of which agreement and approval the justice shall enter in his docket, and shall also pay the costs of prosecution and the expenses incurred by such county for the lying-in and support of and attendance upon the mother during her sickness, and give bond to the county, approved by the justice, conditioned to indemnify such county against all charges for the maintenance of the child born, or that may be born, the justice shall discharge him.

SEC. 372. If the defendant does not comply with the provisions of the preceding section, and there is probable cause to believe him guilty as charged in the complaint,

the justice shall require him to enter into a recognizance, with sureties approved by the justice, in the sum of not less than one hundred dollars nor more than five hundred dollars, to appear before the superior court of the proper county and answer said complaint and abide the order of such court thereon. If he fails to give such recognizance, the justice shall commit him to the county jail, there to be held to answer such complaint. Thereupon the justice shall certify the examination, and return the same, and all process and papers in the case to the clerk of such court.

SEC. 373. Upon trial, the issue shall be whether the defendant is guilty or not guilty. If he is found guilty, or admits the truth of the accusation, he shall be adjudged to be the father of such child, and be charged with its maintenance in such sum, or in such manner, as the court may direct, together with the costs of prosecution. The aggregate amount which the defendant shall be required to pay, exclusive of the costs of prosecution, shall in no case exceed the sum of six hundred dollars. The examination taken before the justice shall in all cases be read to the jury when demanded by the defendant.

SEC. 374. The person so adjudged to be the father of such child shall give bond to the county, approved by the court, for the performance of such judgment and order, and also for the payment of all expenses incurred by the county for the lying-in and support of, and attendance upon, the mother during her sickness, and for the care and support of such child prior to the giving of such bond. If he fails to give such bond, and to pay the costs of prosecution, he shall be committed to the county jail, there to remain until he complies with such order or is discharged as provided by law.

SEC. 375. Any person who has been imprisoned ninety days for failure to comply with any such judgment and order, may apply to said court, by petition setting forth his inability to comply therewith, and praying to be discharged from imprisonment, and shall attach to such petition a verified schedule of all his property, money, and effects, whether exempt from execution or otherwise. Thereupon the court shall appoint a time and place for hearing said application, of which the petitioner shall give at least fifteen days' notice to the complainant and board of supervisors.

SEC. 376. At the hearing the defendant shall be examined on oath in reference to the facts set forth in such petition and his ability to comply with such judgment and order, and his ability to earn money to comply therewith, and any other legal evidence in reference to such matters may be produced by any of the parties interested. If it appears that such defendant is unable to comply with such judgment and order, the court may direct his discharge from custody, upon his making affidavit that he has not in his own name any property, real or personal, and has no such property conveyed or concealed, or in any manner disposed of with design to secure the same to his use or to avoid in any manner compliance with such judgment and order. If upon such hearing it appears that the defendant has property, but not sufficient to comply with such judgment and order, the court may make such order, concerning the same, in connection with such discharge, as justice may require.

SEC. 377. At any time after such discharge upon a petition showing that the defendant is unable to comply with the judgment, or is earning or capable of earning sufficient money to comply therewith, the court shall issue an order requiring him to show cause, at a time and place to be fixed by the court, why he should not comply with the judgment; which order shall be served in the same manner as a summons in a civil action. If it shall appear upon the hearing that the defendant is able to comply with the judgment, or is earning or is capable of earning sufficient money to comply therewith, the court may order the defendant to comply with the judgment and make the payments therein provided within such time as may be directed in the matter, or, in default thereof, that the defendant be committed to the county jail as provided in the case of failure to comply with the terms of such judgment.

SEC. 378. The mother of such child, or such board of supervisors, at any time after the defendant is discharged, may recover of him by action any sum of money which ought to have been paid pursuant to such judgment and order; and, if the mother shall fail to prosecute any such action begun by her, the board of supervisors, or any person interested in the support of such child, may prosecute the same to final judgment.

SEC. 379. If any woman is delivered of a bastard child which is, or is likely to become, a public charge, or is pregnant with a child likely to be born a bastard and become a public charge, the board of supervisors of the county where she resides, or any member thereof, may apply to a justice of the peace of the county to inquire into the facts and circumstances of the case.

SEC. 380. Such justice may summon the woman to appear before him, and may examine her on oath respecting the father of such child, the time when and place where it was begotten, and any other facts he deems necessary for the discovery of the truth, and thereupon shall issue his warrant to apprehend the putative father.

Thereafter the proceedings shall be the same as if the complaint had been made by such woman and with like effect, and in all cases the board and the accused may require the attendance of such woman as a witness.

SEC. 381. The board of supervisors either before or after judgment, may make such compromise and settlement with the putative father of any bastard child, relative to its support, as they deem equitable and just, and thereupon may discharge him from all liability for the support of such child.

ARKANSAS.

Digest of the Statutes, Kirby and Castle, 1916.

SECTION 587. The county court shall have exclusive original jurisdiction in all **Illegitimacy pro-** cases and matters relating to bastardy. (Also Constitution, Art. **ceedings.** VII, sec. 28.)

SEC. 588. On complaint made to the county court by any woman resident of the county, who shall have been delivered of a bastard child, or who may be pregnant with a child which, if born alive may be a bastard, charging on oath any person with being the father of such child, the judge of such court may order the clerk to issue a warrant, or may issue such warrant himself, in the name of the State against the accused person, to the sheriff, coroner or any constable of the county, commanding him forthwith to arrest and bring the accused person before the court to answer such charge, and if complaint in form as aforesaid be made before the judge in vacation of the court he shall issue his warrant against the accused, directed as aforesaid, commanding the officer to have the person accused before the judge at any time that may be fixed by the judge in said warrant for the trial: *Provided*, That no such accused person shall be forced into trial until after the expiration of twenty-four hours after his arrest; and the judge or clerk issuing such warrant shall indorse on such warrant the amount of bail to be taken and approved by the officer executing said warrant, conditioned that the defendant will make his personal appearance at the time set for trial and answer such charge, and not depart without leave, and on the giving of such bond the accused shall be discharged.

SEC. 589. The affidavit, warrant and all papers in the case shall be returned to and filed in the office of the county clerk, on or before the first day of the next term.

SEC. 590. If the child is not born when the accused appears before the court or judge, the case shall be continued until the child is born, and then the case shall be proceeded with, and the defendant shall remain bound on his bail bond.

SEC. 591. When the case is ready for trial, if the accused denies being the father of such child, the court or judge shall hear the evidence and decide the case as other issues at law, but, if a jury is demanded by the accused, the court shall order a jury to be summoned, who shall be elected, impaneled and sworn to try the issue joined and a true verdict render according to evidence, as in other cases at law.

SEC. 592. If it is found by the court or the verdict of a jury that the accused is the father of the child, the court shall render judgment against him for the lying-in expenses in favor of the mother, or person who incurred the same, if required or claimed, for a sum not less than five dollars nor more than fifteen dollars; and if the same shall not be paid upon the rendition of such judgment, together with all costs which may be adjudged against him in said, [sic] case, then the court shall have the power to commit the accused person to jail until the same shall be paid, with all costs; and, if claimed by the mother, the court or judge shall give judgment for a monthly sum of not less than one dollar nor more than three dollars per month, for every month from the birth of the child until it shall attain the age of seven years, and shall further order that the father enter into bond to the State of Arkansas in the penal sum of three hundred dollars, with good and sufficient security, conditioned to be void if such person or his executors or administrators shall indemnify each county in this State from all costs and expenses for the maintenance or otherwise of such child while under the age of seven years, and for the payment of the monthly dues that may be adjudged as aforesaid, which bond shall be approved by the judge and an entry made on the record of its conditions and securities thereon.

SEC. 593. If such person shall refuse or neglect to enter into bond with security as above provided, the county judge shall commit him to the jail of the county, there to remain until he shall comply with such order or until he shall be otherwise discharged according to law.

SEC. 594. The judgment may be revived against the executor or administrator of the person against whom the same was rendered.

SEC. 595. An appeal will lie from a judgment of the county court to the circuit court in all cases of bastardy, as in cases of appeal from judgments of justices of the peace to circuit courts; but no appeal shall be granted until affidavit and appeal bond is filed. When the appeal is granted, the clerk of the county court shall make, certify and transmit a certified copy of all the papers, judgment and orders of the county court to the circuit clerk, who shall give receipt for such transcript, and also enter the same on the docket of the circuit court.

SEC. 596. The attorney prosecuting for the circuit shall conduct the suit on behalf of the State on all appeals to the circuit court in cases of bastardy.

SEC. 597. The circuit court shall hear the case de novo, and make such orders and render such judgment on appeal as the law and evidence require.

SEC. 598. The mother shall be a competent witness in all cases of bastardy, unless she be legally incompetent in any case; and if she be dead at the time of the trial, her declarations, made in her travail and proved to be her dying declarations, shall be evidence.

SEC. 599. The county judge, upon his personal knowledge or upon information that a woman has been delivered of a bastard child, shall issue his warrant, or cause it to be done, and bring such woman before the county court, and require her to disclose or discover to the court, under oath, the father of such child, or give security, in like manner and sum as hereinbefore required in case of the father, to indemnify each county of this State from all costs and expenses for maintenance, or otherwise, on account of such child while under the age of seven years; and if she will not discover the father of such child, or give security, the court shall commit her to the county jail until she discovers the father or gives security.

SEC. 600. The judge of the county court shall be allowed such fees in all cases of bastardy as were allowed to justices of the peace under the law when justices of the peace had jurisdiction of bastardy cases, and the other officers shall be allowed such fees as are by law allowed to sheriffs, coroners, constables and clerks in criminal cases.

SEC. 1493. The county court of each county shall have the following powers and Jurisdiction. jurisdictions: * * * to superintend all * * * bastardy cases * * *.

SEC. 1907. If any woman shall endeavor privately, either by herself or the procurement of others, to conceal the death of any issue of her body, male or female, that it may not come to light, although it can not be proved that it was murdered, every such mother shall suffer the same punishment as for manslaughter.

SEC. 1908. Nothing contained in the last preceding section shall be so construed as to prevent such mother from being indicted for the murder of such bastard child.

SEC. 2852. Illegitimate children shall be capable of inheriting and transmitting an inheritance, on the part of their mother, in like manner as if they had been legitimate of their mother.

SEC. 2853. If a man have by a woman a child or children, and afterwards shall intermarry with her, and shall recognize such children to be his, they shall be deemed and considered as legitimate.

SEC. 2854. The issue of all marriages deemed null in law, or dissolved by divorce, shall be deemed and considered as legitimate.

SEC. 2887. The injured party may apply for such decree of divorce but no divorce shall affect the legitimacy of the children born previously to entering the decree in such case.

SEC. 4155. In all cases not otherwise provided for by law, the father while living, and, after his death, or when there shall be no lawful father, then the mother, if living, shall be the natural guardian of their children, and have the custody and care of their persons, education and estates; and, when such estate is not derived from the person acting as guardian, such parent shall give security and account as other guardians.

NOTE ON INCESTUOUS MARRIAGES.—The law applies to illegitimate as well as to legitimate children and relations. (Sec. 6083.)

NOTE ON JUVENILE COURT LAW.—The law recognizes the mother of the illegitimate child for purpose of notice. (Secs. 1568, 1583.)

NOTE ON MARRIAGES OF FORMER SLAVES.—There is a provision regarding colored persons cohabiting as husband and wife at the period following emancipation and legitimizing their offspring. (Sec. 6085.)

CALIFORNIA.

Deering's Civil Code, 1915.

SECTION 84. *Children of annulled marriages.*—A judgment of nullity of marriage does not affect the legitimacy of children begotten before the judgment.

SEC. 144. *Legitimacy of issue.*—When a divorce is granted for the adultery of the husband, the legitimacy of children of the marriage begotten of the wife before the commencement of the action is not affected.

SEC. 145. *Same.*—When a divorce is granted for the adultery of the wife, the legitimacy of children begotten of her before the commission of the adultery is not affected; but the legitimacy of other children of the wife may be determined by the court, upon the evidence in the case.

SEC. 193. *Legitimacy of children born in wedlock.*—All children born in wedlock are presumed to be legitimate.

Presumption of legitimacy.

SEC. 194. *Children after dissolution of marriage.*—All children of a woman who has been married, born within ten months after the dissolution of the marriage, are presumed to be legitimate children of that marriage.

SEC. 195. *Who may dispute the legitimacy of a child.*—The presumption of legitimacy can be disputed only by the husband or wife, or the descendant of one or both of them. Illegitimacy, in such case, may be proved like any other fact.

SEC. 196a. *Support of illegitimate child.*—The father as well as the mother, of an illegitimate child must give him support and education suitable to his circumstances. A civil suit to enforce such obligations may be maintained in behalf of a minor illegitimate child, by his mother or guardian, and in such action the court shall have power to order and enforce performance thereof, the same as under sections 138, 139 and 140 of the Civil Code in a suit for divorce by a wife.

SEC. 138. *Custody and maintenance of minors during actions for divorce.*—In actions for divorce the court may, during the pendency of the action, or at the final hearing or at any time thereafter during the minority of any of the children of the marriage, make such order for the custody, care, education, maintenance and support of such minor children as may seem necessary or proper, and may at any time modify or vacate the same.

SEC. 139. *Support of wife and children on divorce or separation granted to wife.*—Where a divorce is granted for an offense of the husband, the court may compel him to provide for the maintenance of the children of the marriage, and to make such suitable allowance to the wife for her support, during her life, or for a shorter period, as the court may deem just, having regard to the circumstances of the parties respectively; and the court may, from time to time, modify its orders in these respects.

SEC. 140. *Security for maintenance and alimony.*—The court may require the husband to give reasonable security for providing maintenance or making any payments required under the provisions of this chapter, and may enforce the same by the appointment of a receiver, or by any other remedy applicable to the case.

SEC. 200. *Custody of an illegitimate child.*—The mother of an illegitimate unmarried minor is entitled to its custody, services, and earnings.

Custody.

SEC. 215. *When child becomes legitimate.*—A child born before wedlock becomes legitimate by the subsequent marriage of its parents.

Legitimation.

SEC. 230. *Adoption of illegitimate child.*—The father of an illegitimate child, by publicly acknowledging it as his own, receiving it as such, with the consent of his wife, if he is married, into his family, and otherwise treating it as if it were a legitimate child, thereby adopts it as such; and such child is thereupon deemed for all purposes legitimate from the time of its birth. The foregoing provisions of this chapter do not apply to such an adoption.

SEC. 241. *Guardian; appointment by will, etc.*—A guardian of the person or estate, or of both, of a child born, or likely to be born, may be appointed by will or by deed, to take effect upon the death of the parent appointing:

Guardianship Two. If the child be illegitimate, by the mother.

SEC. 265. *Apprenticeship.*— * * * If a child is illegitimate, the mother alone has power to bind him * * * .

Apprenticeship

SEC. 1387. *Illegitimate children to inherit in certain events.*—Every illegitimate child is an heir of the person who, in writing, signed in the presence of a competent witness, acknowledges himself to be the father of such child; and in all cases is an heir of his mother; and inherits his or her estate, in whole or in part, as the case may be, in the same manner as if he had been born in lawful wedlock; but he does not represent his father or mother by inheriting any part of the estate of his or her kindred, either lineal or collateral, unless, before his death, his parents shall have intermarried, and his father, after such marriage, acknowledges him as his child, or adopts him into his family; in which case such child and all the legitimate children are considered brothers and sisters, and on the death of either of them, intestate, and without issue, the others inherit his estate, and are heirs, as hereinbefore provided, in like manner as if all the children had been legitimate; saving to the father and mother, respectively, their rights in the estates of all the children in like manner as if all had been legitimate. The issue of all marriages null in law, or dissolved by divorce, are legitimate.

SEC. 1388. *Successor to illegitimate child.*—The estate of an illegitimate child, who has been legitimated by the subsequent marriage of its parents, or adopted by the father as provided by section 230, and who dies intestate, is succeeded to as if he were born in lawful wedlock. If such child has not been so legitimated or adopted, his estate goes to his lawful issue, or, if he leaves no issue, to his mother, or in case of her decease, to her heirs at law.

Deering's Code of Civil Procedure, 1915.

SEC. 1962. *Specification of conclusive presumptions.*—The following presumptions, and no others, are deemed conclusive:

Presumption of legitimacy. 5. The issue of a wife cohabiting with her husband, who is not impotent, is indisputably presumed to be legitimate.

SEC. 1963. *All other presumptions may be controverted.*— * * * The following are of that kind:

31. That a child born in lawful wedlock, there being no divorce from bed and board, is legitimate.

Deering's Penal Code, 1915.

SEC. 270. *Failure to support minor child—Jurisdiction.*—A parent of either a legitimate or illegitimate minor child who willfully omits, without lawful excuse, to furnish necessary food, clothing, shelter, or medical attendance for his child, is punishable by imprisonment in the State prison, or in the county jail, not exceeding two years, or by fine not exceeding one thousand dollars, or by both. The superior court, sitting as a juvenile court, may exercise original jurisdiction over all such offenses. (As amended by Laws 1917, ch. 168.)

SEC. 270b. *Surety for support.*—After arrest and before plea or trial, or after conviction or plea of guilty and before sentence under either section 270 or 270a of this code, if the defendant shall appear before the court and enter into an undertaking with sufficient sureties to the people of the State of California in such penal sum as the court may fix, to be approved by the court, and conditioned that the defendant will pay to the person having custody of such child or to such wife, such sum per month as may be fixed by the court in order to thereby provide said minor child or said wife, as the case may be, with necessary food, clothing, shelter, or medical attendance, then the court may suspend proceedings or sentence therein; and said undertaking is valid and binding for six months; and upon the failure of defendant to comply with said undertaking, he may be ordered to appear before the court and show cause why further proceedings should not be had in said action or why sentence should not be imposed, whereupon the court may proceed with said action, or pass sentence, or for good cause shown may modify the order and take a new undertaking and further suspend proceedings or sentence for a like period.

SEC. 270d. *Fine may be paid to wife of defendant.*—In any case where there is a conviction and sentence under the provisions of either section 270 or section 270a, of this code, should a fine be imposed, such fine may be directed by the court to be paid in whole or in part to the wife of the defendant or guardian or custodian of the child or children of such defendant.

SEC. 271. *Desertion of minor.*—Every parent of any child under the age of fourteen years, and every person to whom any such child has been confided for nurture, or education, who deserts such child in any place whatever with intent wholly to abandon it, is punishable by imprisonment in the State prison or in the county jail not exceeding one year or by fine not exceeding five hundred dollars, or by both.

SEC. 273h. *Person convicted may be compelled to work on roads—Payment made to wife, etc.*—In all prosecutions under the provisions of either section 270 or section 270a, or section 270b or section 271, or section 271a of this code where a conviction is had and sentence of imprisonment in the county jail is imposed, the court may direct that the person so convicted shall be compelled to work upon the public roads or highways, or any other public work, in the county where such conviction is had, during the term of such sentence. And it shall be the duty of the board of supervisors of the county where such conviction and sentence are had, and where such work is performed by a person under sentence to the county jail, to allow and order the payment out of any fund available to the wife, or to the guardian, or to the custodian of a child or children, or to an organization, or to an individual appointed by the court as trustee, at the end of each calendar month, for the support of such wife, child or children, a sum not to exceed one and fifty one-hundredths dollars for each day's work of such person.

Deering's Political Code, 1915.

SEC. 2290. *Orphan asylums.*—The provisions herein made for the support of orphanas * * * shall be held to include * * * dependent illegitimate infant * * * .

NOTE ON ADOPTION.—The law recognizes the illegitimate mother in the consent requirement. (Deering's Civil Code, sec. 224, as amended by Laws 1917, ch. 558.)

NOTE ON INCESTUOUS MARRIAGES.—The law applies to illegitimate relationship. (Deering's Civil Code, sec. 59.)

COLORADO.

Revised Statutes of 1908.

SECTION 353. *Complaint—Warrant—Examination—Bond.*—When any single woman who shall be delivered of a child, which by law would be deemed illegitimacy proceedings. pro- and held a bastard, or being pregnant with child, which, if born alive would be a bastard, shall desire to make a complaint against the father of such child, she may make such complaint before any justice of the peace of the county where she may be so delivered; or in case the child is unborn, then to any justice of the peace in the county where she may reside; and thereupon such justice shall issue a warrant for the person accused, to be served by the sheriff or any constable, and shall cause him to be brought before such justice forthwith, and upon his appearance the justice, or the complainant's counsel, if she shall be attended by counsel, shall proceed to question the female and such witnesses as she may produce in her behalf, in presence of the party accused, touching the charge against him, and the justice or the counsel for the accused shall examine such witnesses as may be produced in his behalf; the examination of the complainant and the accused shall be taken down in writing, and if the justice shall think the complaint well founded he shall bind the accused in a bond, with sufficient surety, in a penalty of not less than five hundred (\$500) dollars, to be and appear at the next term of the district court of the county to answer the complaint, and in default of such surety may commit the accused: *Provided*, That the repeal of said acts and parts of acts or of any of them, shall not be construed to affect any right, either as to remedy or otherwise, nor to abate any suit or action or proceeding existing, instituted or pending under the laws so hereby repealed.

SEC. 354. *Justice to return proceedings to district court—Trial.*—It shall be the duty of the justice to return all the proceedings to the next district court, which court, if the woman shall desire it, may cause an issue to be made up whether the reputed father is the real father or not, which issue shall be tried by a jury as other issues in said court, and on the trial thereof both parties shall be competent witnesses.

SEC. 355. *Damages assessed—Annual allowance.*—If the jury shall find for the complainant, they may assess such damages as they may think proper for the support of such child in favor of the complainant, and may direct the same to be paid annually or otherwise for any term of years not exceeding eighteen, and the court shall render judgment accordingly, and execution shall issue. If the jury make an annual allowance, then execution may be issued annually for the sum so annually allowed by the jury, computing from the term at which judgment was rendered.

SEC. 356. *Support of child—Guardian.*—A fair proportion of the sum so recovered shall be appropriated to the support, maintenance and education of the bastard child, and for that purpose may be demanded and received by any guardian that may be appointed for such child, the amount being regulated by order of the chancery court.

SEC. 357. *Issue against complainant—Costs.*—If the issue should be found against the complainant and in favor of the accused, he shall be discharged and the woman shall pay the costs.

SEC. 358. *Limitation of proceedings.*—No proceeding under this act shall be instituted after the child is twelve months old.

SEC. 1641. *Concealing death of bastard—Penalty.*—If any woman shall endeavor, privately, either by herself or the procurement of others, to conceal the death of any issue of her body, male or female, which, if born alive, would be a bastard, so that it may not come to light, whether it shall have been murdered or not, every such mother being convicted thereof shall suffer imprisonment in the county jail for a term not exceeding one year: *Provided, however,* That nothing herein contained shall be so construed as to prevent such mother from being indicted and punished for the murder of such bastard child.

SEC. 7046. *Illegitimate children.*—Illegitimate children shall inherit the same as those born in wedlock, if the parents subsequently intermarry, and such children be recognized after such intermarriage by the father to be his, and illegitimate children shall inherit from their mother the same as those born in wedlock.

SEC. 7049. *Descent of property of bastard or illegitimate person.*—The rule of descent of all property of whatsoever kind or nature, real and personal, of any bastard or illegitimate person, dying intestate in this State, and leaving property and effects therein, shall be as follows, to wit: On the death of any such person intestate, his or her property, estate and effects shall descend to and vest in the widow or surviving husband and children, as the property and effects of other persons in like cases. In case of the death of any such illegitimate person leaving no children or descendants of a child or children, then the whole property and estate, rights, credits and effects shall descend to and vest in the widow or surviving husband. In case of the death of any such illegitimate person, leaving no widow, surviving husband or descendants, then the property and estate of such person shall descend to and vest in the mother and her children, and their descendants; to the mother one-half, and the other half to be equally divided between her children and their descendants, the descendants of a child taking the share of their deceased parent or ancestors. In case of the death of any such illegitimate person, leaving no heirs as above provided, then the property and effects of whatsoever kind or nature shall pass to and vest in the next of kin to the mother of such illegitimate person, in the same manner as the estate of a legitimate person would by law pass to the next of kin.

Laws of 1911, ch. 179, p. 527.

SEC. 1. Any man who shall willfully neglect, fail or refuse to provide reasonable support and maintenance for his wife, or for his legitimate or illegitimate child or children, under sixteen years of age, or who willfully fails, refuses or neglects to provide proper care, food and clothing in case of sickness for his wife or such legitimate or illegitimate child or children, or the mother of his illegitimate child during childbirth and attendant illness, or any such child or children being legally the inmates of a State or county home, or school for children in this State, or who shall willfully fail or refuse to pay to a trustee, who may be appointed by the court to receive such payment, or to the board of control of such home or school the reasonable cost of keeping such child or children in said home, or any man being the father of a child or children, under sixteen years of age, who shall leave such child or children or his wife with intent to abandon such wife or child or children, shall be deemed guilty of a felony, and upon conviction shall be punished by imprisonment in the penitentiary for not to exceed one year, unless it shall appear that owing to physical incapacity or other good cause he is unable to furnish the support, care and maintenance herein required: *Provided,* That in case of any conviction under this act, the court before which such conviction is had, may in lieu of the penalty herein provided accept from the person convicted a bond running to the people of the State of Colorado with sufficient surety to be approved by the court, in such penal sum, not exceeding one thousand dollars, as the court shall fix, conditioned that he will comply with the provisions of this act, or perform the conditions required by the court for his compliance with this act in case he is placed on probation as hereinafter provided.

SEC. 2. In the interest of justice, and for the protection of such wife, child or children, the court may suspend any sentence imposed or which may be imposed against any person under this act upon conditions to be named by the court, which conditions shall require such person to perform his duty toward his wife and child or children or the mother of his child and in all respects to comply with the provisions of this act. And so long as such conditions are complied with such sentence may be suspended, but upon the failure of such person to comply with such conditions, or the undertaking or conditions in any bond or terms of probation, he may be arrested by

the sheriff or other officer on warrant issued by the court or be ordered to appear before the court to show cause why final judgment should not be entered or final sentence passed or enforced. Whereupon the court may enter a final judgment, or impose or enforce final sentence, if such judgment or sentence has not been imposed, and the beginning of any imprisonment in any such case shall commence from the time such sentence is finally passed or directed to be enforced or the court may from time to time for good cause shown modify any order or condition or probation made in such case and take a new bond or undertaking or a new promise from any such defendant and may further suspend any sentence as may be just and proper and in conformity with the spirit, purpose or intention of this act.

SEC. 3. If it shall appear to the court upon the filing of any complaint, information or indictment against any person for violation of this act that such person is beyond the jurisdiction of the county or State, it shall be the duty of the county commissioners of such county in which such action is commenced, upon the order of the court, to furnish such sum of money as may be necessary for the expenses of the sheriff or other proper officer to arrest and return such person to the jurisdiction of the State and county in which such action is commenced. It shall be the duty of the district attorney or other proper officer in any such case, where the defendant is beyond the State of Colorado, to take all necessary and proper steps and proceedings to obtain a requisition from the governor of the State of Colorado, to the governor of the State in which such defendant may be found in order to secure his return from such State to the jurisdiction in which such case is being prosecuted.

SEC. 4. All courts of record in this State shall have jurisdiction under this act and a complaint or information for the violation of this act may be filed in any such court of record by any humane society or probation officer, or before any justice of the peace of the county in which such offense defined in the preceding section is committed.

When such complaint is filed by any other officer or person than the district attorney, it shall be made under oath as required by law in the case of filing complaints before a justice of the peace, and where such complaint is filed before such justice it shall be the duty of such justice to issue a warrant for the arrest of any person charged with such offense, whereupon such person shall be brought before said justice of the peace, who shall proceed to have a preliminary investigation of said charge, and if in the opinion of such justice there shall be sufficient evidence to sustain such charge, the defendant shall be bound over to the county or the district court of the county as in other cases.

Any justice of the peace shall have authority to continue any such case from time to time before final order is made binding over such party to the county or district court if such defendant shall give a bond to the people of the State of Colorado, as provided in section 1 of this act to keep such promises or conditions as may be imposed by such justice for complying with the provisions of section 1 of this act; and the said justice shall have authority to order the defendant to appear before the court from time to time to ascertain if any conditions for compliance with this act imposed by said justice are being complied with, and may at any such time enter a final order in such cause binding over such defendant to the county or district court as in other cases of felony. When any such case is continued from time to time by any justice of the peace or any judge of a court of record, or where any period of probation is permitted under the provisions of this act, the time thereof shall not exceed two years from the date of filing such case, and at any time within such period of two years where any judge before whom such case is pending is satisfied that the defendant in good faith intends to comply with the provisions of this act, such cause may be dismissed and the defendant discharged with or without a final conviction of the offense mentioned in section 1 of this act.

Any person prosecuted or proceeded against under this act shall have the right to demand a speedy hearing and trial as in other cases of felony and a prosecution under this act shall be a bar to all prosecutions for the same offense under any other act: As part of the conditions of a suspended sentence under this act the court may direct that any person found guilty under this act may be committed to any common jail or workhouse for a period not to exceed ninety days.

SEC. 7. If the offense charged is desertion or abandonment or neglect or refusal to provide such child or children or wife with the necessary and proper home, care, food, and clothing, as provided in section 1 of this act, the offense shall be held to have been committed in any county of this State in which such child or children or wife may be at the time such complaint is made.

SEC. 8. If the offense charged is the neglect or refusal to pay to the trustees of such children's home or school, or the trustee who may be appointed by the court to receive such payment, the reasonable cost of keeping such child or children, the offense

shall be held to have been committed in the county where such children's home or school may be situated.

SEC. 9. Citizenship or residence once acquired in this State by any father of any legitimate or illegitimate child living in this State, shall be deemed for all the purposes of this act to continue until such child has arrived at the age of sixteen years, provided said child so long continues to live in this State; and in case of prosecution under this act for the violation of any of the provisions of this act, such citizenship or residence shall likewise be deemed to continue so long as such wife or mother resides in this State and is entitled to the support or maintenance mentioned in section 1 hereof.

SEC. 10. That upon a failure of any person to comply with any undertaking or bond as prescribed in section 1 of this act, he may be arrested by the sheriff or other officer on a warrant issued by the court, and brought before the court for final trial, judgment or sentence, and in such case the court may declare the undertaking or bond forfeited and terminated, and may enter final judgment or impose or enforce a final sentence against such person, as though it had never been suspended, and in any such case a final judgment may be rendered and entered by such court in behalf of the people of the State of Colorado against the surety or sureties on the bond of any such person without the necessity of bringing a separate suit to recover the penalty of any such undertaking or bond so forfeited, and execution may issue on such judgment against such sureties for the collection of the amount of such bond or undertaking as in civil cases: *Provided, however,* That no execution shall issue in any such case against the sureties, until a writ of scire facias shall issue and be served on such sureties, as summons are served in civil cases requiring them to show cause before the court, upon a day to be named therein not less than ten days after the service of said writ, why execution should not be issued against them. Any moneys collected or paid upon any such execution or in any case upon said bond shall be turned over to the clerk of the court in which such bond is given, to be applied to the care and maintenance of the child or children, the wife or mother for the care of whom such conviction was had, in such manner and upon such terms as the county court may direct: *Provided,* That if it shall not be necessary in the opinion of the court to use such fund or any part thereof for such purposes mentioned in this section, the same shall be paid into the county treasury and become a part of the funds of such county.

Laws of 1917, ch. 65.

SEC. 1. Eighth. * * * A divorce shall not in any wise affect the legitimacy of any child of a marriage, nor its right to inherit the property of its father or mother.

Divorce laws.

NOTE ON APPRENTICESHIP.—An illegitimate child may be bound by the mother. (R. S. 1908, sec. 134.)

NOTE ON BIRTH REGISTRATION.—Certificate states whether legitimate or illegitimate. (R. S. 1908, sec. 384.)

NOTE ON INCESTUOUS MARRIAGES.—The law applies to illegitimate children and relations. (R. S. 1908, sec. 1769.)

CONNECTICUT.

General Statutes, Revision of 1913.

SECTION 5061. * * * Children born before marriage whose parents afterwards intermarry shall be deemed legitimate and inherit equally with other children.

Legitimation.

SEC. 6006. *Bastardy complaint by mother.*—Any woman pregnant with, or who has been delivered of, a bastard child, may complain on oath to a justice of the peace or commissioner of the superior court in the town where she dwells, against the person she charges with being the father of such child, and such justice or commissioner of

Illegitimacy proceedings.

the superior court shall thereupon: *Provided,* The complainant shall have filed with the complaint the certificate of a reputable physician certifying that after personal examination of the person of the complainant such physician believes that the complainant is pregnant or has been delivered of a child, issue a warrant and cause such person to be brought before some proper authority. If the court finds probable cause or in the event of the court failing to find probable cause and the plaintiff appealing as hereinafter provided, it shall order such accused person to become bound to the complainant with surety to appear before the next district court of Waterbury, if the complainant dwells in any town of New Haven County within that judicial district, or, if the complainant dwells without said district, before the next court of

common pleas, or if there be no such court before the superior court, in the county in which the complainant dwells, and abide the order of said court, and on his failure so to do shall commit him to jail. If the court fails to find probable cause such finding shall be a bar to any further proceeding for the same cause of action: *Provided*, The plaintiff upon complying with the provisions of section 5561, shall be allowed an appeal to the court to which the defendant might have been bound over if probable cause had been found.

SEC. 6007. *Continuance of case—Evidence.*—Said court may order the continuance of such case, and the renewal of such bond, if necessary; and if such woman shall continue constant in her accusation it shall be evidence that such accused person is the father of such child.

SEC. 6008. *Judgment and order of court in bastardy case.*—If the defendant be found guilty, the court shall order him to stand charged with the maintenance of such child, with the assistance of the mother, and to pay a certain sum weekly, for such time as the court shall judge proper, and that the clerk of the court shall issue execution for the same quarterly; and the court shall ascertain the expense of lying-in, and of nursing the child, till the time of rendering judgment, and order him to pay half thereof to the complainant, and shall grant execution for the same and costs of suit; and may require him to become bound with sufficient surety to perform such order, and to indemnify the town chargeable with the support of such child from any expense for its maintenance, and if he fail to do it may commit him to jail, there to remain till he complies with the order; but if it shall appear that the mother does not apply the weekly allowance paid by him towards the support of such child, and that such child is chargeable, or likely to become chargeable, to the town where it belongs, the court on application may discontinue such allowance to the mother, and may direct it to be paid to the selectmen of such town, for such support, and may issue execution in their favor for the same.

SEC. 6009. *Settlement of bastardy case; what consent essential.*—No complaint shall be withdrawn, dismissed or settled by agreement of the mother and the putative father of any bastard child, without the consent of the selectmen of the town in which said mother has her settlement or residence, or the consent of her parent or guardian, unless provision is made to the satisfaction of the court to relieve such parent, guardian or town from all expense that has accrued, or may accrue, for the maintenance of such child and for the cost of complaint and prosecution thereof. No settlement made by the mother and father, or the guardian of the mother or father, before or after such complaint is made, without the approval of the selectmen of the town chargeable with the support of such bastard child, shall relieve the father from liability to such town for such child's support.

SEC. 6010. *Town may maintain bastardy suit; when.*—The town interested in the support of a bastard child, when sufficient security shall not be offered to indemnify it against all expense for its support, may, if the mother neglects to bring such a suit, institute a suit against the person accused of begetting such child, and may take up and pursue any suit commenced by the mother for the maintenance of such child, in case she fails to prosecute to final judgment; and any bond given by the defendant in such case to the complainant shall have the same effect as if given to such town; and if the defendant is found guilty the court shall make an order that he shall give a bond with sufficient surety to such town, to indemnify it against all expense for the maintenance of such child, and pay the costs of prosecution; and on failure thereof may commit him to jail there to remain until he shall comply with such order.

SEC. 6011. *Bastardy suit may be compromised by selectmen.*—When any town shall have brought a suit under section 6010, the selectmen of such town may compromise such suit on receipt of a fixed sum, or of security for the payment thereof for the benefit of the town, instead of prosecuting the same to final judgment.

SEC. 6012. *Continued liability of one committed for bastardy.*—No person committed to jail for failure to comply with an order of the court as provided in sections 6006, 6007, 6008, and 6010, or any of them, shall be entitled to any of the privileges allowed other prisoners on civil process, or to take the oath provided for poor debtors, within six months from the date of such commitment, but shall be kept at hard labor during said six months; and the mother of such bastard child, or the town chargeable with its support, may, at any time after the liberation of such prisoner, or after his taking said oath, recover the sum or sums due from him in pursuance of such order of court.

SEC. 6013. *Support of defendant while imprisoned.*—Nothing contained or referred to in section 6012 shall be construed to require the complainant to pay or give security for the support of the defendant during his confinement in jail, nor shall such defendant be discharged from imprisonment by reason of payment or security not being made or given for his support, but the jailer shall furnish such support, and may recover the cost of the same from such defendant, or, in case of his inability to pay such cost,

of the town where he belongs; and in case he belongs to no town in this State, then such cost shall be paid by the State.

SEC. 6014. *Bastardy: evidence of good character admissible.*—Evidence of the good character of the accused for morality and decency, prior to the alleged commission of the offense, shall be admissible in his favor in bastardy proceedings, and may be rebutted by evidence showing a contrary character at such time.

SEC. 6015. *Either party may demand jury trial.*—In all prosecutions under the provisions of this chapter, the trial of the question of fact as to the guilt or innocence of the defendant shall, at the desire of either party, be by jury.

SEC. 6160. *Bastardy complaint to be brought within three years.*—No complaint of bastardy shall be brought after three years from the birth of the bastard.

SEC. 6389. *Secret delivery of a bastard.*—Every woman who shall conceal her pregnancy, and shall willingly be delivered in secret by herself of any bastard child, shall be fined not more than one hundred and fifty dollars or imprisonment not more than three months.

SEC. 6390. *Concealment of birth of bastard.*—Every woman who shall endeavor to conceal the birth of any such child, so that it may not come to light, shall be fined not more than three hundred dollars and imprisoned in a jail not more than one year; and shall become bound to the State in recognizance with surety for her good behavior.

SEC. 1795. *Parents must contribute to support of children committed to county homes.*—Whenever either parent of any child, whether such child is born in lawful wedlock

Support. or not, who has been committed by a court to any county temporary home, shall be of sufficient pecuniary ability to contribute to the support of such child, such parent shall contribute such weekly sum for the support of such child as may be agreed upon between such parent and the board of management of the temporary home where such child is being cared for. Whenever said board shall be unable to make a satisfactory agreement with any parent as above provided, or whenever any parent shall refuse to make any such payment, and said board is of the opinion that such parent, in either case, is in receipt of such income as to enable him or her to make such payment, said board shall make complaint to the prosecuting officer of the town where such parent resides. Such prosecuting officer shall thereupon proceed against such parent as provided in section 6416, and such parent shall be subject to the penalties and provisions of said section as amended.¹

SEC. 5293. *Orders relative to children and alimony—Void marriages.*—Whenever from any cause any marriage is void, the superior court may, upon complaint, pass a decree declaring such marriage void, and may thereupon make such

Void marriages. order in relation to any children of such marriage, if such there be, and concerning alimony, as it might make in a proceeding for a divorce between such parties if married; and the provisions of this chapter shall apply to such complaint in the same manner as to complaints for divorce.

SEC. 5289. *Order as to custody of children.*—On any complaint for a divorce, the court

Divorce; custody and support. may at any time make any proper order as to the custody, care and education of the children, and may at any time thereafter annul or vary such order.

SEC. 5290. *When sole custody of children given to mother.*—In all cases in which a divorce is granted on the complaint of a woman, without any order being made at the time of granting such divorce, relative to the custody of the children, and in all cases in which any husband and wife having minor children, shall, by reason of the abandonment or cruelty of the husband, live separately, the superior court in the county where the parties, or one of them, reside, may, on the complaint of the mother, and due notice given to the husband, award the custody of the children to the mother, for such time and under such regulations, as it may deem proper.

SEC. 5291. *Court may assign custody of children to either party.*—In all controversies before the superior court between husband and wife as to the custody of minor children of the marriage, the court may assign the custody of such children to either parent according to its best judgment upon the facts of the case, and upon such conditions and limitations as it shall deem proper; and when such court is not actually in session, any judge thereof may, prior to any action in the premises by the superior court, make any order which he may deem reasonable as to the care, custody and maintenance of any such minor children during the pendency of the cause, and make any proper order in the cause, including orders of injunction, and any such orders may afterwards be set aside or altered by such court, or by such judge when such court is not actually in session.

¹ The section referred to contains provisions concerning neglect to support wife or children.

SEC. 5292. *Children; how supported.*—Upon the dissolution of any marriage by divorce, the parents of a minor child of such marriage, who is in need of maintenance, shall maintain it according to their respective abilities, and upon the complaint of either parent, then or thereafter made to the superior court, it shall inquire into their pecuniary ability, and may make and enforce such decree against either or both of them, for the maintenance of such child as it shall consider just, and may direct any proper security to be given therefor.

DELAWARE.

Revised Code, 1915.

SECTION 3029. *Children; legitimacy of; when action brought by wife.*—In an action brought by the wife, the legitimacy of any child born or begotten before the commencement of the action shall not be affected.

Divorce.

SEC. 3030. *Children; legitimacy of; when action brought by husband.*—In an action brought by the husband, the legitimacy of any child born or begotten before the commission of the offense charged shall not be affected; but the legitimacy of any other child of the wife may be determined as one of the issues of the action. All children begotten before the commencement of the action shall be presumed to be legitimate.

SEC. 3072. *Liability of father for support—Limit of age—Trustees of the poor—Remedies of, against the father.*—The father of a bastard child shall be bound to pay

Support.

the trustees of the poor of either county all charges they shall incur for maintenance, or otherwise, of such child whilst under ten years old. They may recover the same as any other debt; or by means of any bond of indemnity, given to secure them, under the provisions of section 17 (sec. 3077) of this chapter.

SEC. 3073. *Proceedings in bastardy—Oath of mother—Warrant—Form of proceedings—County of trial.*—When a woman being pregnant with, or who has been delivered of a bastard child, shall discover the father, upon oath before a justice of the peace, the justice shall issue a warrant to any constable for the arrest of the person so charged; and such warrant may be served in any county.

Illegitimacy proceedings.

The proceeding shall be in the name of the State, and the warrant of arrest in form as in other criminal cases; but cases of bastardy may be tried in either county.

SEC. 3074. *Recognizance for father's appearance after the birth.*—If, when the process is returned, the child is not born, the justice shall require the person charged as the father, to enter into recognizance to the State, with sufficient surety, in the sum of five hundred dollars, with condition to be void if the said person shall appear before the said justice at the expiration of one month from the birth of said child, and on every other day to which the case shall be adjourned; and the justice shall commit him to jail on failure to give such security.

SEC. 3075. *Hearing; time of.*—The justice shall hear the case on the return of the warrant with the party charged, if the child be born; or if not, at the expiration of one month from its birth; or at such other time, in either case, as he may adjourn the hearing to.

SEC. 3076. *Putative father may testify.*—In all bastardy cases, the accused or putative father shall be allowed to testify in his own behalf as to all matters material and relevant to his case.

SEC. 3077. *Order on putative father—Payments—Recognizance.*—If it be determined that the person charged is the father of the child, the justice shall order him to pay the mother of the child ten dollars for lying-in expenses, and also ten dollars to the physician who attended the mother during her delivery, and also to pay the mother, or other person keeping it, for the maintenance of the child, not less than five nor more than twenty-five dollars every month from its birth until it is fifteen years old. The justice shall also require the father of the child to enter into recognizance to the State, with sufficient surety, in the sum of one thousand dollars, with condition to be void, if the said father shall obey and fulfill the said order of the justice, and shall further indemnify the trustees of the poor of every county from all charges for maintenance or otherwise, on occasion of the said child while under the age of fifteen years. (As amended by Laws 1917, ch. 228.)

SEC. 3078. *Commitment upon failure to give bond—Discharge.*—If the person so ordered to give bond to the State refuse or neglect to comply with such order, the justice shall commit him to jail, there to remain until he shall comply, or until he shall be thence delivered by the court of general sessions. Any justice of the peace may take and approve the bond and surety, and discharge him from prison.

SEC. 3079. *Bond; approval of; disposition of—Neglect of justice a misdemeanor—Penalty.*—Any justice, taking such bond of indemnity, shall indorse his approval, and shall transmit said bond to the trustees of the poor of his county, within sixty days. If he neglect this duty, he shall be deemed guilty of a misdemeanor and shall be fined not exceeding fifty dollars.

SEC. 3080. *Appeal from order of filiation—Bond—Appeal a supersedeas; when.*—Any person, against whom an order of filiation shall be made as aforesaid, may appeal to the court of general sessions, if within fifteen days from the making of such order he enter into recognizance before the justice, with sufficient surety, in the sum of five hundred dollars, with condition to be void if the appellant shall appear in the said court and prosecute said appeal with effect, and not depart the said court without leave. The appeal shall be a supersedeas from the time of surety entered, and not before.

SEC. 3081. *On appeal, mother and witnesses bound for appearance—Transmission of record—Entry of appeal—Causes of appeal—Order upon appeal.*—In case of appeal, the justice shall bind the mother and other witnesses for the State for their appearance at court; and he shall forthwith transmit a certified copy of his record to the clerk of the peace for his county, who shall enter the appeal. The appellant shall, without delay, file causes of appeal; and the attorney general shall appear for the State. The court may affirm, or reverse, or amend the orders, as justice may require. (See also sec. 546.)

SEC. 3082. *Paternity denied—Trial by jury.*—If the appellant, in the causes of appeal, deny that he is the father of the child, the court shall, without further pleading, order this matter to be tried by a jury at the bar.

SEC. 3083. *Bond; taken and approved by court of general sessions—Commitment for noncompliance—Amended orders.*—The court shall take and approve the bond and surety according to any order affirmed, or amended, and may commit the party for noncompliance, or discharge him on his own recognizance, or make any other order in the case. An amended order shall be of the same nature and effect as the original order.

SEC. 3084. *Order, if affirmed, certified to the justice—Indemnity bond sent to trustees of the poor.*—In case of an order affirmed, or amended, the clerk of the peace shall certify such facts to the justice, who shall note it on his record; and the said clerk shall transmit any bond of indemnity, taken by the court under this section, to the trustees of the poor.

SEC. 3085. *Mother, testimony of, competent—If dead, her dying declaration, taken in travail, competent—If father can not be found, the mother's deposition competent.*—In bastardy cases the mother shall be a competent witness, unless otherwise legally incompetent; and if she be dead at the time of hearing, or trial, her declaration made in the time of travail, and persevered in as her dying declaration, shall be evidence.

And, where in any proceedings against the father, it appears, by the return of the constable, that he can not be found, the justice may take the mother's deposition in his absence, and it shall be received in evidence in all cases, if her attendance can not be procured.

SEC. 3086. *Costs; how paid.*—The costs of proceedings in bastardy cases shall be paid by the father, if the paternity is established; otherwise by the county.

SEC. 3087. *Descent from illegitimate person.*—When an illegitimate-born person dies intestate and without lawful issue, his property, real and personal, if any such there be, shall pass, and belong to the mother, if living, and in case of her death, to her heirs, subject always to the payment of debts and demands against such illegitimate person or persons, and to expenses of administration. (This section is also referred to in sec. 3269.)

SEC. 3087A. *Descent from the mother of illegitimate persons.*—When the mother of an illegitimate-born child dies intestate, her property, real and personal, if any there be, shall pass and belong in equal shares to such illegitimate-born child or children, and to the lawful issue of such who may have died, by right of representation.

If there be no such issue, then said property shall go to the heirs at law of such deceased mother, subject always to the payment of her just debts and all lawful demands against her estate. (As added by Laws 1917, ch. 229.)

SEC. 3088. *Destitute children, legitimate or illegitimate; support of.*—Penalties for the desertion or nonsupport of legitimate and illegitimate children may be imposed and proceedings to enforce their support may be taken, under the provisions of sections 2 to 14 of chapter 87.

SEC. 4001. *Jurisdiction—Proceedings.*—Justices of the peace shall severally have illegitimacy proceed-jurisdiction in cases of bastardy, and the proceedings shall be as in and by the laws and regulations provided in Article IV of chapter eighty-eight.

SEC. 4002. *Duties of justice in bastardy cases—Interrogation of woman—Bond of indemnity—Commitment; when—Discharge of woman from prison—Who may discharge.*—Any justice, upon his own knowledge, or upon information, that a woman has been delivered of a bastard child, shall cause her to be brought before him, and require her to discover the father upon oath, or to give bond and surety, as is provided by section 17 of chapter eighty-eight, to indemnify the trustees of the poor; and, if she will not discover the father, or give security, he shall commit her to jail until she shall comply, or until she shall be discharged by the court. Any justice may take oath, or security, and discharge her from prison.

SEC. 4003. *Costs; how paid.*—The costs of proceedings in bastardy cases shall be paid by the father, if the paternity is established, otherwise by the county. (Same as sec. 4466.)

SEC. 4237. *Bastardy and filiation; proof in.*—In proceedings of bastardy and filiation the accused or putative father and the mother may testify, and the dying declaration or deposition of the mother taken in the absence of the putative father shall be evidence, as provided by sections 16 and 25 of chapter eighty-eight.

NOTE ON ABANDONMENT LAW.—The desertion and support law applies to legitimate or illegitimate child or children. (Sec. 3034.)

NOTE ON APPRENTICESHIP LAW.—An illegitimate child shall be regarded as having no father; but the justices, upon application of his putative father, may, in their discretion, issue process to bring before them such child and the mother, or person having charge of it, and may bind such child, if they think proper to do so. Such binding shall not in any manner affect the security given by the putative father, or the mother, to indemnify the county. (Sec. 3102, third paragraph.)

NOTE ON BIRTH REGISTRATION.—The certificate of birth states whether the child is legitimate or illegitimate. (Sec. 808.)

DISTRICT OF COLUMBIA.

Code of Law, 1911.

SECTION 387. The illegitimate child or children of any female and the issue of any such illegitimate child or children shall be capable to take from their mother, or from each other, or from the descendants of each other, in like manner as if born in lawful wedlock. When an illegitimate child or children shall die leaving no descendants, or brothers or sisters, or the descendants of such brothers or sisters, then and in that case the mother of such illegitimate child or children, if living, shall be entitled as next of kin, and if the mother be dead the next of kin of the mother shall take in like manner as if such illegitimate child or children had been born in lawful wedlock.

SEC. 957. *Antenuptial children.*—If any man shall have a child or children by any woman whom he shall afterwards marry, such child or children, if acknowledged by the man, shall, in virtue of such marriage and acknowledgment, be legitimated and capable in law of inheriting and transmitting heritable property as if born in wedlock.

SEC. 958. *Illegitimate children.*—The illegitimate child or children of any female and the issue of such illegitimate child or children shall be capable in law of taking real estate by inheritance from their mother, or from each other, or from the descendants of each other, as the case may be: *Provided*, That such illegitimate child or children, or the issue of such illegitimate child or children, shall not take any interest in the real estate of the mother when such mother is mentally incapacitated from making a will, and shall remain so mentally incapacitated until her death; and where such illegitimate child or children shall die leaving no descendants or brothers or sisters, or the descendants of such brothers or sisters, then and in that case the mother of such illegitimate child or children, if living, shall be entitled as heir to the real estate of such illegitimate child or children, and if the mother be dead, the heirs of the mother shall take in like manner as if such illegitimate child or children had been born in lawful wedlock. (32 Stat., Part I, p. 537.)

SEC. 972. *Issue of a marriage annulled.*—In case any marriage shall be declared by decree to have been void on account of either party having a former wife or husband living, if it shall appear that said marriage was contracted in good faith by the other party and in ignorance of said obstacle to the marriage, that fact shall be found and declared by the decree, and in such case the issue of said marriage shall be deemed to be the legitimate issue of the parent who was capable of contracting.

SEC. 973. *Issue of a lunatic's marriage.*—Where a marriage is declared null and void on account of the idiocy or lunacy of either party at the time of the marriage the issue of the marriage shall be deemed legitimate.

SEC. 974. *Legitimacy of issue of a marriage dissolved.*—A divorce for any of the causes herein provided for shall not affect the legitimacy of the issue of the marriage dissolved by such divorce, but the legitimacy of such issue, if questioned, shall be tried and determined according to the course of the common law.

NOTE ON BIRTH REGISTRATION.—Certificate to embody such data as may be necessary for the purpose of the Bureau of Census. "If the child born be illegitimate, it shall in no case be necessary for any physician, midwife or other person to indicate on any report required by this act any fact or facts whereby the identity of the father or mother or of the child born will be disclosed." (34 U. S. Stat. L., p. 1010, Act March 1, 1907.)

An act to provide for the support and maintenance of bastards in the District of Columbia. (37 U. S. Stat. L., p. 134, Act June 18, 1912.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That every child shall be deemed a bastard who shall be begotten and born out of lawful wedlock, but this shall not be deemed to repeal or modify section 957 of the Code of Law of the District of Columbia.

SEC. 2. That any unmarried woman who is quick with child may go before the clerk of the juvenile court of the District of Columbia, or if therein she has been delivered of a bastard child, or (if that be her place of legal residence) if she was delivered thereof outside of the said District, at any time after becoming quick with child or within two years after the birth of the bastard, and accuse any person of being the father of the child. Before issuing a warrant, the clerk shall examine the mother of such bastard child, under oath, concerning her residence and her marriage or single condition when the child was begotten; where and when she was delivered of such child; and if she was delivered of the child outside of the District, the reason thereof, and reduce her statement to writing, and sign same as clerk. If, however, the clerk shall fail to reduce the statement to writing, or if it should be lost, such failure or loss shall be no cause for dismissing the warrant. Or such warrant may be applied for by the Board of Charities of the District or any person as next friend of the said bastard under two years of age.

SEC. 3. That on such examination, if the woman be quick with child, or the child having been born and still under two years of age, a warrant shall be issued by the clerk, directed to the United States marshal, or to the major and superintendent or any member of the Metropolitan police force of the District of Columbia, requiring the person accused to be arrested and brought for preliminary examination before the judge of the juvenile court, District of Columbia, who, upon such preliminary examination, may require the accused to enter into bond, with good surety to the United States of America, in a sum to be fixed by such judge, not to exceed two thousand five hundred dollars, for his appearance and trial in the juvenile court, District of Columbia, on the first day of the next or any succeeding term thereof, and to perform the judgment of said court, but in the event that the woman be quick with child at the time of the arrest, final trial shall not take place until after the birth of the child. If the person accused shall fail to give bond required of him, the judge shall forthwith commit him to the Washington Asylum and Jail, there to remain until he enter into the required bond or otherwise be discharged by due process of law. In all prosecutions under this act the accused shall, upon his demand therefor, be entitled to a trial by jury; otherwise the trial shall be by the judge.

SEC. 4. That if the accused shall fail to appear, the bond for his appearance as aforesaid shall be forfeited and execution issued thereon; and the trial of, or other proceedings in, the cause shall, nevertheless, proceed as though he were present; and the court shall, upon the verdict of the jury, make all such orders as it shall deem proper as though the accused were in court. In any event, if the accused acknowledge in open court the paternity of such child, or if at the trial the finding of the jury be against the accused, the court, in rendering judgment thereon, shall make an order for the annual payment, until the child be fourteen years of age, of such sum of money, in such installments, monthly or otherwise, and in such manner, as shall to the court seem best, and shall also make such order for the keeping, maintenance, and education of the child as may be proper; and in case of forfeiture of the appearance bond, the money collected upon the forfeiture shall be applied in payment of the judgment against the accused; and if any balance remains after the payment of the said judgment, it shall be covered into the Treasury, through the collector of taxes, to the credit, half and half, of the District of Columbia and the United States.

SEC. 5. That the accused who has failed to execute bond before judgment, if he shall be adjudged to be the father of the child, shall thereupon enter into bond, with or without sureties, in the discretion of the court, conditioned for the payment of the sums adjudged, in such installments and in such manner as the court shall direct. In case of his failure to enter into such bond, the court shall commit him to the Washington Asylum and Jail, there to remain until he shall give such bond or pay the total amount of the sums adjudged. If the child shall die before the expiration of the aforesaid bond, upon payment of the amount or amounts due to the death of the said child, or if all dues be paid under such bond, the person adjudged to be the father of the child and his sureties shall be discharged therefrom.

SEC. 6. That when the defendant shall have been confined for six months, solely for failure to make the payments required or to enter into the bond as ordered, such defendant may make application in writing to the judge of the juvenile court, District of Columbia, setting forth his inability to make such payments, notwithstanding his desire to do so, or enter into such required bond, upon which application the judge of the juvenile court, District of Columbia, shall proceed to hear and determine the matter. If, on examination, it shall appear to the court that such defendant is unable to make such payments or to execute the required bond, and that he has no property exceeding twenty dollars in value, except such as is by law exempt from being taken on execution for debt, the judge shall administer the following oath: "I do solemnly swear that I have not any property, real or personal, to the amount of twenty dollars, except such as is by law exempt from being taken on civil process for debt by the laws of the District of Columbia, and that I have no property in any way conveyed or concealed, or in any way disposed of for my future use or benefit. So help me, God." Upon taking such oath such prisoner shall be discharged from imprisonment only but not from his obligation as such putative father to support his child; and the judge of the juvenile court, District of Columbia, shall give to the superintendent of the Washington Asylum and Jail a certificate setting forth the facts.

SEC. 7. That should the accused fail to comply with any order of the court entered as aforesaid, the bond shall be forfeited, and the money collected upon the forfeiture shall be applied in payment in full of the judgment against the accused, and if any balance remains after the payment of the said judgment, it shall be covered into the Treasury, through the collector of taxes, to the credit, half and half, of the District of Columbia and the United States.

SEC. 8. That the juvenile court of the District of Columbia is hereby given jurisdiction in all cases arising under this act as well as concurrent jurisdiction with the Supreme Court of the District of Columbia in all cases arising under the act approved March 23, 1906, entitled "An act making it a misdemeanor in the District of Columbia to abandon or willfully neglect to provide for the support and maintenance by any person of his wife or of his or her minor children in destitute and necessitous circumstances." And the court, in its discretion, may order payments to be made by delinquent fathers, at the precinct wherein they reside, through the Metropolitan Police of the District of Columbia.

FLORIDA.

General Statutes, 1906.

SECTION 1929. *Effect of decree of divorce.*—No decree of divorce shall render illegitimate the children born during the marriage, except when it is rendered upon the ground set forth in paragraph 9 of section 1928, in which case the marriage shall be invalid from the beginning and the issue illegitimate, and subject to all the legal disabilities of such issue.

Void marriages and divorce.

SEC. 2292. *Bastards.*—Bastards shall be capable of inheriting or of transmitting inheritance on the part of their mother in like manner as if they had been lawfully begotten of such mother.

Inheritance.

SEC. 2579. *Marriages between white and negro persons.*—It shall be unlawful for any white male person residing or being in this State to intermarry with any negro female person; and it shall be in like manner unlawful for any white female person residing or being in this State to intermarry with any negro male person; and every marriage formed or solemnized in contravention of the provisions of this section shall be utterly null and void, and the issue, if any, of such surreptitious marriage shall be regarded as bastard and incapable of having or receiving any estate, real, personal or mixed, by inheritance.

Void marriages.

SEC. 2598. *Arrest and examination on charge of bastardy.*—When any single woman who shall be pregnant or delivered of a child, who by law would be deemed and held a bastard, shall make complaint to the county judge or the justice of the peace of the district where she may be so pregnant or delivered, and shall accuse any person of being the father of such child, such justice shall issue a process directed to the sheriff or constable of such county against the person so accused and cause him to be brought forthwith before him, and upon his appearance said justice shall hear the parties and any evidence which they may produce touching the charge, and if said justice shall be of opinion that sufficient cause appears, he shall bind the person so accused in bond, with good and sufficient security, to be and appear before the next term of the circuit court for said county, and in the meantime to be of good behavior.

SEC. 2599. *Trial in circuit court.*—The circuit court at its next term shall have full and complete cognizance and jurisdiction of said charge of bastardy, and shall cause an issue to be made up whether the reputed father is the real father of the child or not, which issue shall be tried by a jury. The inquiry shall not be ex parte, but the reputed father shall have a right to appear by himself or counsel and controvert by all legal evidence the charge alleged against him.

SEC. 2600. *Judgment against defendant.*—If the issue be found against the defendant or reputed father, then he shall be condemned by the judgment of said court to pay not exceeding fifty dollars and all necessary incidental expenses attending the birth of the said child at the discretion of the said court, yearly, for ten years toward the support, maintenance and education of said child, and the said reputed father shall give bond with good and sufficient security, to be approved by the court, for the due and faithful payment of said sum of money at times therein named, which shall be made payable to the prosecutrix, which said bond shall be and hereby is declared to have the same force, validity and effect as a judgment of said court upon which execution may issue as often as money thereon shall become due and payable. If, however, said child shall not be born alive, or, being born, should die at any time and that fact be suggested upon the record, then and from that time the bond aforesaid shall be void.

SEC. 2601. *Time allowed to pay judgment.*—In all cases of bastardy in any of the courts of this State, in which the issue shall be found against the defendant or reputed father, and judgment is rendered against him, the court shall in such judgment specify a certain time for which he shall be imprisoned in case of failure or refusal to comply with such judgment; but in no case shall such term of imprisonment be for a longer period than one year.

SEC. 2602. *Effect of marriage of parents of bastard.*—If the mother of any bastard child and the reputed father shall at any time after its birth intermarry, the said child shall in all respects be deemed and held legitimate and the bond aforesaid shall be void.

SEC. 3218. *Concealing death of bastard child.*—If any woman conceals the death of any issue of her body, which if born alive would be a bastard, so that it may not be known whether such child was born alive or not, or whether it was not murdered, she shall be punished by imprisonment not exceeding one year, or by fine not exceeding one hundred dollars.

SEC. 3219. *Indictment and verdict.*—Any woman indicted for the murder of her infant bastard child may also be charged in the same indictment with the offence described in the last preceding section, and if upon the trial she be acquitted of the murder, she may be found guilty of the concealment.

NOTE ON MARRIAGES OF FORMER SLAVES.—Marital cohabitation of colored persons prior to emancipation is recognized as marriage and the issue legitimized. (Sec. 2586.)

NOTE REGARDING BIRTH REGISTRATION.—Birth and death certificates are on the standard form approved by the United States Bureau of Census. (Laws 1915, ch. 6892, sec. 14.)

GEORGIA.¹

Code of 1911.

Vol. I, Civil Code.

SECTION 2184. * * * The domicile of a bastard shall be that of his mother.

Residence.

SEC. 2935. *Void marriages.*—Marriages of persons unable to contract, or unwilling to contract, or fraudulently induced to contract, are void. The issue of such marriages, before they are annulled and declared void by a competent court, are legitimate. In the latter two cases, however, a subsequent consent and ratification of the marriage, freely and voluntarily made, accompanied by cohabitation as husband and wife, shall render valid the marriage.

¹ These laws are also contained in Park's Annotated Code 1914, under section numbers corresponding to those of the Code of 1911. The birth registration law of 1914 constitutes section 1676 (bb) of the Political Code of the 1914 edition.

SEC. 2963. *Effect of total divorce.*—A total divorce annuls the marriage from the time of its rendition, except it be for a cause rendering the marriage void originally; but in no case of divorce shall the issue be rendered

Divorce.

bastards, except in cases of pregnancy of the wife at the time of the marriage.

SEC. 3012. *Legitimate children.*—All children born in wedlock, or within the usual period of gestation thereafter, are legitimate. The legitimacy of a child thus born may be disputed. Where possibility of access exists, except in cases of divorce from bed and board, the strong presumption is in favor of legitimacy, and the proof should be

Presumption of legitimacy; divorce and legitimation.

clear to establish the contrary. If pregnancy existed at the time of the marriage, and a divorce is sought and obtained on that ground, the child, though born in wedlock, is not legitimate. The marriage of the mother and reputed father of an illegitimate child, and the recognition of such child as his, shall render the child legitimate; and in such case the child shall immediately take the surname of his father.

SEC. 3013. *Legitimacy by order of court.*—A father of an illegitimate child may render the same legitimate by petitioning the superior court of the county of his residence, setting forth the name, age, and sex of such child, and also the name of the mother; and if he desires the name changed, stating the new name, and praying the legitimating of such child. Of this application, the mother, if alive, shall have notice. Upon such application, presented and filed, the court may pass an order declaring said child to be legitimate, and capable of inheriting of the father in the same manner as if born in lawful wedlock, and the name by which he or she shall be known.

Legitimation and name.

SEC. 3026. *Bastard.*—A bastard is a child born out of wedlock, and whose parents do not subsequently intermarry, or a child the issue of adulterous intercourse of the wife during wedlock.

SEC. 3027. *Father's obligation.*—The father of a bastard is bound to maintain him.

Support. This obligation shall be good consideration to support a contract by him. He may voluntarily discharge this duty; if he fails or refuses to do it, the law will compel him.

SEC. 3028. *Mother's rights.*—The mother of a bastard is entitled to the possession of the child, unless the father shall legitimate him as before provided. Being the only recognized parent, she may exercise all

Custody

the paternal power.

SEC. 3029. *Inheritance by bastard.*—Bastards have no inheritable blood, except that given to them by express law. They may inherit from their mother, and from each other, children of the same mother, in the same manner as if legitimate. If a mother have both legitimate and illegitimate children, they shall inherit alike the estate of the mother. If a bastard dies leaving no issue or widow, his mother, brothers, and sisters shall inherit his estate equally. In distributions under this law the children of a deceased bastard shall represent the deceased parent.

Inheritance.

SEC. 3030. *By legitimate from illegitimates.*—If a bastard dies intestate, leaving no widow or lineal descendant, or illegitimate brother or sister, or descendant of a brother or sister, or mother, but shall leave a brother or sister of legitimate blood, such brother or sister, or descendant of such brother or sister, may inherit the estate of such intestate; but in default of any such person, the brothers and sisters of the mother of such bastard or their descendants, or the maternal grandparents of such bastard, may inherit the estate of such bastard, to be divided amongst said persons in accordance with the degrees of consanguinity prescribed in the laws for the distribution of other estates.

SEC. 3045. *Guardian of bastard.*—The ordinary may appoint a guardian for the person and property of an illegitimate child in all cases where he may deem it necessary.

Guardianship.

Vol. II, Penal Code.

SEC. 1330. *Proceedings against the mother.*—Any justice who knows, of his knowledge, or has information on oath to that effect, of any woman having a bastard child, or being pregnant with one, which it is probable will become chargeable to the county, may issue a warrant directed to the sheriff or any constable of the county where the case may arise, requiring the offender to be brought before him to give security to the ordinary of the county, in the sum of \$750, for the support and education of the child until it arrives at the age of fourteen years, or to discover on oath the father of the child.

Illegitimacy proceedings.

SEC. 1331. *Against the father.*—When the woman is brought before the justice, if she discovers on oath the father of the child, the justice shall issue a warrant, directed as before, requiring that the person thus sworn to be the father of the child so born, or to be born, shall be brought before him, which warrant said officers shall execute.

SEC. 1332. *Father required to give bond.*—When the putative father is brought before the justice, he may be required to give security for the maintenance and education of the child until it arrives at the age of fourteen years, and also the expense of lying-in with such child, boarding, nursing, and maintenance, while the mother is confined by reason thereof; and if the putative father shall fail to give such security, the justice shall bind him over in a sufficient recognizance to appear before the next superior or county court of the county to answer such complaint as may then and there be alleged against him touching the premises, and the solicitor general shall prefer and lay before the grand jury the proper indictment.

SEC. 1333. *Proceedings when the woman refuses to discover the father.*—When the woman is brought before the justice, if she refuses to discover on oath the father of the child, or give security to appear before the next superior or county court for the county and to give such security as may be then and there required of her by the court for the education and maintenance of the child, as mentioned in the first section of this article, the justice shall commit her, in manner and form aforesaid, as pointed out in this article; and if she refuses to make known to said court the father of the child, or give security as aforesaid, the court may imprison her not exceeding three months.

SEC. 1334. *Either party may make defense.*—Either party, when charged as mentioned in this article, may offer exculpatory affidavits or testimony to the justice, who may exercise his discretion, after due inquiry being had, to discharge or recognize both or either of the parties, in conformity with this article.

SEC. 1335. *How and where bonds are to be returned.*—The justice, before whom the bond shall be taken, shall return it to the ordinary of the county in which such female shall reside, within thirty days after the same is taken.

SEC. 1336. *Action on bond.*—It shall be the duty of the ordinary, when any child has or shall become chargeable to the county where a bond is taken to institute an action on it; and he shall recover the full amount of the bond, which judgment shall remain open, and be subject to be appropriated by the courts, from time to time, as the situation and exigencies of the bastard child may require.

SEC. 682. *Putative father refusing to give security.*—If a putative father of a bastard child shall refuse or fail to give security for the maintenance and education of such child, and also the expense of lying-in with such child, boarding, nursing, and maintenance while the mother is confined by reason thereof, when required to do so in terms of the law, he shall be guilty of a misdemeanor. If fined, the fine shall be paid over to the ordinary of the county, to be by him improved and applied from time to time, as occasion may require, for the maintenance of such child, and for the payment of the expense of lying-in with such child, boarding, nursing, and maintenance while the mother is confined by reason thereof, and shall not be retained by the officers of court for the purpose of paying insolvent costs due them, or for any other purpose.

SEC. 79. *Concealment of death of bastard child.*—If any woman shall conceal or attempt to conceal the death of any issue of her body, which, if it were born alive, would be a bastard, so that it may not come to light whether it was murdered or not, she is guilty of a misdemeanor.

SEC. 369. *Bigamy—Exceptions—Five years' absence.*—Five years' absence of the husband or wife, and no information of the fate of such husband or wife, shall be sufficient cause of acquittal of the person indicted

Void marriages. under the preceding section; and the issue of such second marriage, born before the commencement of any prosecution for polygamy, or within the ordinary period of gestation thereafter, shall, notwithstanding the invalidity of such marriage, be considered as legitimate.

NOTE ON BIRTH REGISTRATION.—Certificate of birth states: Whether legitimate or illegitimate; also, if legitimate, full name of father; provided, that if the child is illegitimate, the name of the putative father shall not be entered without his consent, but the other particulars relating to the putative father (items 9 to 13) may be entered if known, otherwise as "unknown." (Laws 1914, no. 466.)

HAWAII.

Revised Laws, 1915.

SECTION 1142. *Births reported by parents and physicians.*—It shall be the duty of the father of each and every child born in the Territory of Hawaii; or if the father be absent from the country at the time of the birth, or not living, or if the child be illegitimate, then it shall be the duty of the mother of such child, within thirty days after the birth of such child, to notify the registrar of births, deaths and marriages of the district in which such birth takes place, of the date of birth, sex and name of such child, if named; the names of the parents of such child, whether it is legitimate or illegitimate, and the locality of the birth. It shall

also be the duty of every physician who shall attend, or be called upon in connection with the birth of any child in the Territory of Hawaii, within thirty days after such birth, to report such birth and the other facts relating to such child in this section above set forth.

SEC. 2272. *Circuit judges at chambers.*—The judges of the several circuit courts shall have power at chambers within their respective jurisdictions, but subject to appeal to the circuit and supreme courts, according to law, as follows:

Fifth. To legalize the adoption of children and to decree the affiliation of bastards. (See chs. 171, 172.)

SEC. 2478. *Sworn petition in what cases.*—All applications * * * for the affiliation of bastards * * * shall be by sworn petition addressed to some judge having jurisdiction thereof.

SEC. 2922. *Legitimacy in case of annulment for nonage or insanity.*—Upon the annulment of a marriage on account of nonage, insanity, or idiocy of either party, the issue of the marriage shall be deemed to be in all respects the legitimate issue of the parent who, at the time of the marriage, was capable of contracting.

SEC. 2923. *Children of marriage annulled for consanguinity, illegitimate.*—Upon the annulment of a marriage that is prohibited on account of consanguinity between the parties, the issue of the marriage shall be illegitimate.

SEC. 2940. *Issue legitimate in case of husband's adultery.*—A divorce for the cause of adultery committed by the husband shall not affect the legitimacy of the issue of the marriage.

SEC. 2941. *Prima facie legitimate in case of wife's adultery.*—A divorce for the cause of adultery committed by the wife shall not affect the legitimacy of the issue of the marriage, but the legitimacy of such children, if questioned, shall be tried and determined by the judge. In every such case the legitimacy of such children shall be presumed, until the contrary be shown.

SEC. 2995. *Bastards—Support—Inheritance from mother.*—Children whose parents shall not have been legally married, in contemplation of chapter 166, shall be denominated bastards, and shall not be entitled to inherit from their male parents, without express bequests: *Provided, nevertheless,* That the female parent shall be compellable to maintain and support them during minority, and they shall be capable of taking by inheritance from the mother, without will.

SEC. 2996. *Bastards—Legitimation.*—All children born out of wedlock, irrespective of the marriage of either parent to another, become legitimate on the marriage of the parents with each other and are entitled to the same rights as those born in wedlock.

SEC. 3005. *Bastard defined.*—Every child shall be deemed a bastard who shall be begotten and born out of lawful wedlock, unless such child shall have been legitimized as by law provided.

SEC. 3006. *Application for arrest of alleged father.*—Any unmarried woman when quick with child or within six months after the delivery thereof, may apply to the judge of the juvenile court of the circuit in which she or the alleged father of said child resides, or in which she was delivered of such child, for a warrant for the arrest of the person whom she accuses of being the father thereof.

Such warrant may also be applied for by either of the parents or guardian of such mother, or by any person as the next friend of said bastard within six months after the date of its birth; and if after said complaint has been made either by the mother or by any one as above specified, the mother dies or refuses or neglects to prosecute the same, any of said persons may prosecute the case to final judgment for the benefit of the parent, guardian or the bastard.

Before issuing such warrant, the judge shall examine the applicant under oath concerning the residence, the character and married or single condition of the mother when the child was begotten, the time and place where it was begotten, where and when it was born, if born, and such other circumstances as such judge shall deem necessary or proper for testing the truth of such accusation, and shall reduce the statement of the applicant to writing and sign the same.

SEC. 3007. *Issuance of warrant—Bond.*—If, on such examination, there appears probable cause to believe that the woman is quick with child or that the child, if born, is still under six months of age and that the accused person is the father thereof, the judge shall issue a warrant directed to the high sheriff of the Territory of Hawaii, his deputy, the sheriff of the county or city and county or his deputy, or any police officer within the circuit, requiring the accused to be arrested and brought for preliminary examination before the judge of the juvenile court, who, upon such pre-

liminary examination, may require the accused to enter into bond, with good surety to the Territory of Hawaii in a sum to be fixed by such judge, not to exceed two thousand five hundred dollars, for his appearance and trial in the juvenile court, and to perform the judgment of such court, but, if the woman be quick with child at the time of the arrest, final trial shall not take place until after the birth of the child. If the accused shall fail to give the bond required of him, the judge shall forthwith commit him to the custody of the sheriff of the county or city and county, there to remain until he shall enter into the required bond or otherwise be discharged by due process of law. In all prosecutions under this chapter, the accused shall, upon his demand therefor, be entitled to a trial by jury; otherwise the trial shall be by the judge.

SEC. 3008. *Trial—Judgment.*—If the accused shall fail to appear, the bond for his appearance as aforesaid shall be forfeited; but the trial of, or other proceedings in, the cause shall, nevertheless, proceed as though he were present; and the court shall upon the findings of the judge or the verdict of the jury make all such orders as it shall deem proper as though the accused were in court. If the accused acknowledge in open court the paternity of such child, or if at the trial the finding of the court or jury be against the accused, the court, in rendering judgment thereon, shall make an order for the annual payment, until the child be fourteen years of age, of such sum of money, in such installments, and in such manner, as shall to the court seem best, taking into consideration the financial standing of the defendant, his income, earning capacity, and those of his family who are dependent upon him for their support, maintenance and education, and shall also make such order for the keeping, maintenance and education of the child as may be proper; and in case of forfeiture of the appearance bond, the money collected upon the forfeiture shall be applied in payment of the judgment against the accused.

SEC. 3009. *Bond after judgment.*—An accused who has failed to execute bond before judgment, if he shall be adjudged to be the father of the child, shall thereupon enter into bond, with sureties, conditioned for the payment of the sum or sums adjudged in such installments and in such manner as the court shall direct. In case of his failure to enter into such bond the court shall commit him to the custody of the sheriff of the county or city and county there to remain until he shall give such bond or pay the total amount of the sums adjudged. If the child shall die before the expiration of the bond, the person adjudged to be the father of the child and his sureties shall be discharged from the bond upon the payment of all amounts due before such death.

SEC. 3010. *Mother as witness.*—The mother of the child shall be admitted as a witness in support of the complaint and may be compelled to testify, but no prosecution shall afterwards be had against her for or on account of any transaction, matter or thing concerning which she may testify or produce evidence, documentary or otherwise. If, upon examination under the provisions of section 3006, and also in the time of her travail, she accuses the same person of being the father of the child, and continues constant in such accusation, her accusation in time of travail shall be admissible in evidence upon the trial to corroborate her testimony.

SEC. 3011. *Compromise of case.*—If any of the persons authorized by the provisions of section 3006 have intervened as therein provided, no complaint instituted by the mother shall be withdrawn, dismissed or settled by agreement between her and the putative father without the consent of the court and of the person so intervening, unless provision is made to the satisfaction of the court, to relieve and indemnify any parent, guardian, county or city and county or the Territory from all charges which have accrued or may accrue for the maintenance and education of the child and for the costs of the complaint and the prosecution thereof.

SEC. 3012. *Inability to make payment.*—When the accused shall have been confined solely for failure to make the payments required or to enter into the bond as ordered, he may apply in writing to the judge of the juvenile court, setting forth his inability to make such payments, notwithstanding his desire to do so, or to enter into such required bond, whereupon the judge shall proceed to hear and determine the matter. If, on examination, it shall appear that the accused is unable to make such payments or to execute the required bond and that he has no property exceeding twenty dollars in value, except such as is by law exempt from being taken on execution for debt, the prisoner shall be discharged from imprisonment only, but not from his obligation, if any, to support the child.

SEC. 3013. *Recovery by civil action.*—The mother of such child, and any parent, guardian or other person as the next friend of such child, county or city and county, or the Territory, respectively, may, at any time after the liberation of the accused as provided in section 3012, recover by civil action any amount of money for which he is liable to them respectively in pursuance of such order of court.

SEC. 3014. *Forfeiture of bond—Application of proceeds.*—Should the accused fail to comply with any order of the court entered as aforesaid, the bond shall be forfeited, and the money collected upon the forfeiture shall be applied in payment of the judgment against the accused.

SEC. 3015. *Prosecution within six months.*—No prosecution under this chapter shall be begun more than six months after the birth of the child, provided that the time during which the person alleged to be the father thereof shall be absent from the Territory shall not be computed.

SEC. 3070. *Illegitimate children.*—All illegitimate children shall have their mother's name as a family name. They shall, besides, have a Christian name suitable to their sex.

SEC. 3248. *Descent; to illegitimate child.*—Every illegitimate child shall be considered as an heir to his mother, and shall inherit her estate, in whole or in part, as the case may be, in like manner as if he had been born in lawful wedlock.

SEC. 3249. *Descent; from illegitimate persons.*—If any illegitimate person shall die intestate, without leaving lawful issue, or a widow, his estate shall descend to his mother; but if he leaves a widow, she shall take one-half, and his mother the other half, and if his mother be not living, but his widow is, then the widow shall take one-half, and the remaining half shall go to his brothers and sisters in equal parts, the children of any deceased brother or sister taking by right of representation; and in default of surviving brothers or sisters, or their issue, said one-half shall go to the brothers and sisters of his mother in equal shares, the issue of any such brother or sister who is deceased, taking by right of representation; and in default of any such relatives as are in this section mentioned, such half, and the whole, in the event that he shall leave no widow, shall go to his next of kin; and no suit at law or other process shall hereafter be commenced or prosecuted on behalf of the government of this Territory to recover or hold any property which but for this section, might have been held to have escheated to said government.

SEC. 4164. *Concealing death of bastard—Punishment.*—If any woman conceals the death of any issue of her body, whether born alive or not, which, if born alive, would have been a bastard, so that it may not be known whether such issue was born alive or not, or whether it was murdered, she shall be punished by fine not exceeding one hundred dollars, and imprisonment at hard labor not more than two years.

NOTE ON WORKMEN'S COMPENSATION ACT.—Child is defined as including illegitimate children acknowledged previous to the injury. (Laws 1917, act 227.)

IDAHO.

Revised Code, 1908.

SECTION 2699. *Legitimation of issue by marriage.*—A child born before wedlock becomes legitimate by the subsequent marriage of its parents.

SEC. 2642. *Legitimation of children.*—When a marriage is annulled on the ground that former husband or wife is living, or on the ground of insanity, children begotten before the judgment are legitimate and succeed to the estate of both parents.

SEC. 2669. *Legitimacy of issue.*—When a divorce is granted for the adultery of the wife, the legitimacy of children begotten of her before the commission of the adultery is not affected; but the legitimacy of other children of the wife may be determined by the court upon the evidence in the case.

SEC. 2703. *Consent of parents of child.*—A legitimate child can not be adopted without the consent of its parents, if living, nor an illegitimate child without the consent of its mother, if living, except that consent is not necessary from a father or mother deprived of civil rights, or adjudged guilty of adultery, or of cruelty, and for either cause divorced, or adjudged to be an habitual drunkard, or who has been judicially deprived of the custody of the child on account of cruelty or neglect. If it can be shown satisfactorily to the judge that the parent or parents have abandoned it, or ceased to provide for its support, then it may be adopted by the written consent of its legal guardian. If no guardian then of its nearest relative. If no relative then by the consent of some person appointed by the judge to act in the proceedings as the next friend to such child.

SEC. 2709. *Adoption of illegitimate child.*—The father of an illegitimate child, by publicly acknowledging it as his own, receiving it as such, with the consent of his wife, if he is married, into his family, and otherwise treating it as if it were a legitimate child, thereby adopts it as such; and such child is thereupon deemed for all purposes legitimate from the time of its birth. The foregoing provisions of this chapter do not apply to such an adoption.

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SEC. 5703. *Heirship of illegitimate children*.—Every illegitimate child is an heir of the person who, in writing, signed in the presence of a competent witness, acknowledges himself to be the father of such child; and in all cases is an heir of his mother; and inherits his or her estate, in whole or in part as the case may be, in the same manner as if he had been born in lawful wedlock, but he does not represent his father or mother by inheriting any part of the estate of his or her kindred, either lineal or collateral, unless before his death, his parents shall have intermarried, and his father, after such marriage, acknowledges him as his child or adopts him into his family; in which case such child and all the legitimate children are considered brothers and sisters, and on the death of either of them, intestate and without issue, the others inherit his estate and are heirs as hereinbefore provided, in like manner as if all the children had been legitimate; saving to the father and mother respectively, their rights in the estates of all the children in like manner as if all had been legitimate. The issue of all marriages null in law, or dissolved by divorce, are legitimate.

SEC. 5704. *Mother successor to illegitimate child*.—If an illegitimate child who has not been acknowledged or adopted by his father, dies intestate without lawful issue, his estate goes to his mother, or in case of her decease, to her heirs at law.

SEC. 5781. *Appointment of testamentary guardian*.—A guardian of the person or estate, or of both, of a child born, or likely to be born, may be appointed by will or by deed, to take effect upon the death of the parent appointing:

2. If the child be illegitimate, by the mother.

NOTE ON BIRTH REGISTRATION.—Certificate of birth states whether legitimate or illegitimate. (Laws 1911, ch. 191, sec. 14.)

NOTE ON WORKMEN'S COMPENSATION LAW.—“Child” includes acknowledged illegitimate children. (Laws 1917, ch. 81, sec. 14.)

NOTE ON INCESTUOUS MARRIAGES.—The law applies to illegitimate relationship. (R. C. 1908, sec. 2615.)

ILLINOIS.

Hurd's Revised Statutes, 1917.

Ch. 17. Bastardy.

SECTION 1. *Complaint by mother*.—That when an unmarried woman who shall be pregnant, or delivered of a child which by law would be deemed a bastard, shall make complaint to a justice of the peace or judge of a municipal court in the county where she may be so pregnant or delivered, or the person accused may be found and shall accuse, under oath or affirmation, a person with being the father of such child, it shall be the duty of such justice or judge to issue a warrant against the person so accused and cause him to be brought forthwith before him, or in his absence, any other justice of the peace or judge in such county.

SEC. 2. *Warrant*.—The warrant shall be directed to all sheriffs, coroners and constables in the State of Illinois, and may be executed by any such officer in any county.

SEC. 3. *Examination—Bond or jail*.—Upon his appearance, it shall be the duty of said justice or judge to examine the woman, upon oath or affirmation, in the presence of the man alleged to be the father of the child, touching the charge against him. The defendant shall have the right to controvert such charge, and evidence may be heard as in cases of trial before the county court. If the justice or judge shall be of the opinion that sufficient cause appears, it shall be his duty to bind the person so accused in bond, with sufficient security, to appear at the next county court to be holden in such county, to answer such charge, to which court said warrant and bond shall be returned, except that in the County of Cook, where said warrant and bond shall be returned to the criminal court of Cook County. On neglect or refusal to give bond and security, the justice or judge shall cause such person to be committed to the jail of the county, there to be held to answer the complaint.

SEC. 4. *Trial in county court*.—The county, or the said criminal court of such county, at its next term, shall cause an issue to be made up, whether the person charged, as aforesaid, is the real father of the child or not, which issue shall be tried by a jury. When the person charged appears and denies the charge, he shall have a right to controvert, by all legal evidence the truth of said charge.

SEC. 5. *Continuance*.—If, at the time of such court, the woman be not delivered, or is unable to attend, the court shall order a recognizance to be taken of the person charged as aforesaid, in such an amount and with such sureties as the court may deem

just, for the appearance of such person at the next court after the birth of her child; and should such mother not be able to attend at the next term after the birth of her child, the recognizance shall be continued until she is able.

SEC. 6. *Competent witnesses.*—On the trial of every issue of bastardy, the mother and defendant shall be admitted as competent witnesses, and their credibility shall be left to the jury.

SEC. 7. *When judgment is for defendant.*—If, upon the trial of the issue aforesaid, the jury shall find that the child is not the child of the defendant or alleged father, then the judgment of the court shall be that he be discharged. The woman making the complaint shall pay the costs of the prosecution, and judgment shall be entered therefor, and execution may thereupon issue.

SEC. 8. *When judgment is against defendant.*—In case the issue be found against the defendant or reputed father, or whenever he shall, in open court, have confessed the truth of the accusation against him, he shall be condemned by the order and judgment of the court to pay a sum of money not exceeding one hundred dollars for the first year after the birth of such child, and a sum not exceeding fifty dollars yearly, for nine years succeeding said first year, for the support, maintenance and education of such child, and shall, moreover, be adjudged to pay all the costs of the prosecution, for which costs execution shall issue as in other cases. And the said reputed father shall be required by said court to give bond with sufficient security, to be approved by the judge of said court, for the payment of such sum of money as shall be ordered by said court, as aforesaid; which said bond shall be made payable to the people of the State of Illinois, and conditioned for the due and faithful payment of said yearly sum, in equal quarterly installments, to the clerk of said court, which bond shall be filed and preserved by the clerk of said court.

SEC. 9. *Refusal to give security.*—In case the defendant shall refuse or neglect to give such security as may be ordered by the court, he shall be committed to the jail of the county, there to remain until he shall comply with such order, or until otherwise discharged by due course of law. Any person so committed shall be discharged for insolvency or inability to give bond: *Provided*, Such discharge shall not be made within six months after such commitment.

SEC. 10. *Money; how used.*—The money, when received, shall be laid out and appropriated for the support of such child in such manner as shall be directed by the court; but when a guardian shall be appointed for such bastard, the money arising from such bond shall be paid over to such guardian.

SEC. 11. *Proceedings on default.*—Whenever default shall be made in the payment of a quarterly installment, or any part thereof, mentioned in the bond provided for in the foregoing section, the county judge of the county or the judge of the criminal court in Cook County, wherein such bond is filed, shall, at the request of the mother, guardian, or any other person interested in the support of such child, issue a citation to the principal and sureties in said bond, requiring them to appear on some day, in said citation mentioned, during the next term of the county court of said county for probate business, or of the said criminal court, and show cause, if any they have, why execution should not issue against them for the amount of the installment or installments due and unpaid on said bond, which said citation shall be served by any sheriff or constable of the county in which such principal or sureties reside or may be found, at least five days before the term day thereof. And if the amount due on such installment or installments shall not be paid at or before the time mentioned for showing cause as aforesaid, the said judge shall render judgment in favor of the people of the State of Illinois, against the principal and sureties who have been served with said citation, for the amount unpaid on the installment or installments due on said bond, and the costs of said proceeding; and execution shall issue from said court against the goods and chattels of the person or persons against whom said judgment shall be rendered, for the amount of said judgment and costs, to the sheriff of any county in the State where the parties to said judgment, or either of them, reside or have property subject to such execution.

SEC. 12. *Contempt—Lien of judgment—Emergency.*—And said judge shall also have power in case of default in the payment, when due, or any installment or installments, or any part thereof, in the condition of said bond mentioned, to adjudge the reputed father of such child guilty of contempt of said court, by reason of the nonpayment as aforesaid, and to order him to be committed to the county jail of said county until the amount of said installment or installments so due, shall be fully paid, together with all costs of such commitment, and in the obtaining and enforcing of said judgment and execution, as aforesaid. But the commitment of such reputed father shall not operate to stay or defeat the obtaining of judgment and the collection thereof

by execution as aforesaid: *Provided*, That the rendition and collection of judgment, as aforesaid, shall not be construed to bar or hinder the taking of similar proceedings for the collection of subsequent installments on said bond, as they shall become due and remain unpaid: *And provided, further*, That if the judge, or any other person interested in the support of such child, shall deem it necessary, in order to secure the payment or collection of such judgment, that the same should be made a lien on real estate, a transcript of said proceedings and judgment shall be made by the clerk of said court, and filed and recorded in the office of the clerk of the circuit court of said county, in the same manner and with like effect as transcripts of judgments of justices of the peace are filed and recorded, to make the same a lien on real estate, and execution and other process shall thereupon issue for the collection of said judgment as in case of other judgments in said circuit court, and the provisions of this section, as far as applicable, apply to all bonds which have heretofore been taken in pursuance of the statutes in regard to bastardy.

SEC. 13. *Custody of child*.—The reputed father of a bastard child shall not have the right to the custody or control of such child, if the mother is living and wishes to retain such custody and control, until after it shall have arrived at the age of ten years, unless, upon petition to the circuit court of the county in which the mother resides, it shall, on full hearing of the facts in the case, after notice to the mother, be made to appear to the judge of said court that said mother is not a suitable person to have the control and custody of such child.

SEC. 14. *Child not born alive, or dying*.—If the said child should never be born alive, or being born alive should die at any time, and the fact shall be suggested upon the record of the said court, then the bond aforesaid shall from thenceforth be void.

SEC. 15. *Marriage of parents*.—If the mother of any bastard child, and the reputed father, shall, at any time after its birth, intermarry, the said child shall, in all respects, be deemed and held legitimate, and the bond aforesaid be void.

SEC. 16. *Limitation*.—No prosecution under this act shall be brought after two years from the birth of the bastard child: *Provided*, The time any person accused shall be absent from the State shall not be computed.

SEC. 17. *Compromise—Release by mother*.—The mother of a bastard child, before or after its birth, may release the reputed father of such child from all legal liability on account of such bastardy, upon such terms as may be consented to in writing by the judge of the county court of the county in which such mother resides: *Provided*, A release obtained from such mother in consideration of a payment to her of a sum of money less than four hundred dollars (\$400) in the absence of the written consent of the county judge shall not be a bar to a suit for bastardy against such father, but if, after such release is obtained, suit be instituted against such father and the issue be found against him, he shall be entitled to a set-off for the amount so paid, and it shall be accredited to him as of the first payment or payments: *And provided, further*, That such father may compromise all his legal liability on account of such bastard child, with the mother thereof, without the written consent of the county judge, by paying to her any sum not less than four hundred dollars.

Ch. 39. Descent.

SEC. 2. *Illegitimates*.—An illegitimate child shall be heir of its mother and any maternal ancestor, and of any person from whom its mother might have inherited, if living; and the lawful issue of an illegitimate person shall represent such person, and take, by descent, any estate which the parent would have taken, if living.

Second. The estate, real and personal, of an illegitimate person, shall descend to and vest in the widow or surviving husband and children, as the estate of other persons in like cases.

Third. In case of the death of an illegitimate intestate leaving no child or descendant of a child, the whole estate, personal and real, shall descend to and absolutely vest in the widow or surviving husband.

Fourth. When there is no widow or surviving husband, and no child or descendants of a child, the estate of such person shall descend to and vest in the mother and her children, and their descendants—one-half to the mother, and the other half to be equally divided between her children and their descendants, the descendants of a child taking the share of their deceased parent or ancestor.

Fifth. In case there is no heir as above provided, the estate of such person shall descend to and vest in the next of kin to the mother of such intestate, according to the rule of the civil law.

Sixth. When there are no heirs or kindred, the estate of such person shall escheat to the State, and not otherwise.

SEC. 3. *Child legitimated*.—An illegitimate child, whose parents have intermarried, and whose father has acknowledged him or her as his child, shall be considered legitimate.

Legitimation.

Ch. 40. Divorce.

SEC. 3. *Legitimacy of children*.—No divorce shall, in anywise, affect the legitimacy of the children of such marriage, except in cases where the marriage shall be declared void on the grounds of a prior marriage.

Void marriages and divorce.

Ch. 89. Marriages.

SEC. 4. * * * And any children born to parties who have entered into such common-law marriage shall be and are deemed legitimate upon the parents having obtained a license to marry and are married in the manner provided in this act.

Ch. 38. Criminal code.

SEC. 44. If any woman shall endeavor, privately, either by herself or by the procurement of others, to conceal the death of any issue of her body, which if born alive would be a bastard, so that it may not come to light, whether it shall have been murdered or not, she shall suffer confinement in the county jail for a term not exceeding one year: *Provided, however*, That nothing herein contained shall be so construed as to prevent such mother from being indicted and punished for the murder of such bastard child.

Concealment of births and deaths.

Ch. 53. Foundlings.

SEC. 1. * * * When any child in this State, under the age of one year, shall be willfully abandoned by its parents, and shall be taken and cared for by any charitable institution in this State, incorporated or otherwise, such parents so abandoning said child shall thenceforth lose all their right, control and authority over said child, and said right, control and authority shall thereupon become vested in said institution.

Abandonment.

SEC. 2. It shall be deemed a willful abandonment, for the purposes of this act, if any such child be left by its parents at any such charitable institution.

SEC. 3. In case of illegitimate children, or where the father of any legitimate child shall have willfully deserted his family for the space of one year, an abandonment by the mother of any such child shall be deemed an abandonment by its parents, according to the provisions of this act.

NOTE ON BIRTH REGISTRATION.—The act of June 22, 1915, contains the following section:

SEC. 13. That the certificate of birth shall contain at least the items of the standard certificate of birth as approved and adopted by the United States Bureau of the Census: *Provided*, That the certificate of birth and record thereof required by this act shall not, in the case of an illegitimate child, contain the name of [or] other identifying fact, relating to the father or reputed father or to the mother thereof, without the consent of said father or reputed father to the use of his name, nor the use of the name of the mother, without her consent to the use of her name. (Ch. 111½, sec. 31.)

NOTE ON INCESTUOUS MARRIAGES.—The law applies to illegitimate relationship. (Ch. 89, sec. 1.)

NOTE ON APPRENTICESHIP.—An illegitimate minor may be bound by his or her mother during the lifetime of the putative father, as well as after his decease. (Ch. 9, sec. 2.)

NOTE ON ADOPTION LAW.—The law recognizes the illegitimate mother in the consent requirement. (Ch. 4, secs. 2, 9a, 9b.)

NOTE ON MARRIAGES OF FORMER SLAVES.—The law legitimizes the issue of marital cohabitation between former slaves. (Law May 15, 1891.)

INDIANA.

Burns' Annotated Statutes (revision of 1914).

SECTION 1013. *Verified complaint—Warrant.*—When any woman who has been delivered of or is pregnant with a bastard child shall make a complaint thereof in writing, under oath, before any justice of the peace, charging any person with being the father of such child, such justice shall, by his warrant, cause such person to be arrested and brought before him.

SEC. 1014. *Trial.*—Upon the arrest of such person, or the return of the warrant that he can not be found, such justice shall proceed to hear and determine such complaint.

SEC. 1015. *Style of suit—Evidence—Woman a witness.*—The prosecution shall be in the name of the State of Indiana, on the relation of the prosecuting witness; but the rules of evidence shall be the same as in civil cases, and the mother of the child, if of sound mind, shall be a competent witness.

SEC. 1016. *Bond to appear in circuit court—Commitment.*—If the justice, on hearing, adjudge the defendant to be the father of such child, he shall, if such defendant is in custody, require him to give bond in a sum not less than two hundred nor more than ten hundred dollars, with sufficient sureties, payable to the State of Indiana, and conditioned that he will appear at the next term of the circuit court of such county to answer such complaint, not depart without leave, and abide the judgment and orders of such court; or, failing therein, that he will pay such sums of money and to such person as may be adjudged by such court; and shall transmit such bond, together with a transcript of his proceedings and the other papers in the cause, without delay, to the clerk of the circuit court of the proper county. And if such defendant shall fail to give such bond, such justice shall commit him to jail until discharged by law. Such bond, or any bond given by such defendant on any continuance or arrest may be put in suit by any person in whose favor the court may adjudge any sum of money in such prosecution.

SEC. 1017. *Bond after commitment.*—Any person committed to jail for failure to give such bond may be discharged from custody, by filing, at any time after his commitment, with the clerk such bond to the satisfaction of such clerk; and a certificate of the clerk to the sheriff shall be sufficient to authorize him to discharge said defendant from custody.

SEC. 1018. *Trial as in civil cases.*—The trial and continuance thereof of such prosecution, both before the justice and in the circuit court, shall, in all respects not herein otherwise provided for, be governed by the law regulating civil suits.

SEC. 1019. *Justice must write woman's evidence.*—The testimony of the mother shall be by such justice reduced to writing, read carefully to such witness, and by her be signed; and shall, by such justice, be returned to the circuit court with the other papers in such case, to be used by either party to sustain or impeach the testimony of such witness. The failure of the justice so to do shall not be ground of dismissal in the circuit court; but such justice shall recover no fees in such case.

SEC. 1020. *Bond upon continuance.*—Upon any continuance granted either party, the court or justice granting the same shall require of the defendant a like bond as is required in the fourth section, or commit him to jail for failure to give such bond, and such defendant may be discharged from custody in the same manner as in the fifth section of this act provided.

SEC. 1021. *Trial in absence of defendant—Transcript.*—If the defendant shall not have been arrested, or has escaped after arrest, such trial shall proceed in his absence; and if he be adjudged the father of such child, the justice shall transmit the papers and a transcript of such judgment, without delay, to the clerk of the circuit court of the proper county, who shall file and docket the same for trial; and such cause shall be heard and determined by such court in the same manner as if such defendant were present.

SEC. 1022. *Filing is lien on realty.*—The filing of such transcript, as in the preceding section of this act provided, shall operate, from the time of such filing, as a lien upon the real estate of the defendant to the extent of the judgment which may afterward be rendered against him in such prosecution; and such judgment shall have the same effect and lien as if rendered at the time of such filing; and such lien shall be declared in such judgment.

SEC. 1023. *No abatement if mother dies—Proceedings—Evidence.*—The death of the mother shall not abate such suit, if the child be living; but a suggestion of record of the fact shall be made, and the name of the child substituted in the proceedings for that of the mother, and a guardian ad litem shall be appointed for that purpose, who shall not be liable for costs; and in such case, the testimony of the mother, taken in writing before the justice, may be read in evidence, and shall have the same force as if she were living, and had testified to the same in court.

SEC. 1024. *When clerk to issue warrant—Bond—Commitment.*—When the defendant is not in custody, or under bond, and a transcript has been filed, as in the ninth section required, the clerk of the circuit court shall issue to the sheriff of any county where such defendant may be alleged to be, a warrant for his apprehension; and such sheriff, if he arrest such defendant, shall require of him such bond as in the fourth section required; and on his failure to give the same to the satisfaction of such sheriff, he shall commit him to the jail of the county where such trial is pending.

SEC. 1025. *Trial in circuit court.*—If the defendant, in the circuit court, deny the charge, the issue shall be tried by the court or a jury.

SEC. 1026. *Judgment against defendant.*—If such jury find that the defendant is the father of such child, or such defendant, in court, shall confess the same, he shall be adjudged the father of such child, and stand charged with the maintenance and education thereof.

SEC. 1027. *Order to pay—Commitment—How released.*—Such court shall, on such verdict and judgment, make such order as may seem just for securing such maintenance and education to such child, by the annual payment to such mother (or if she be dead or an improper person to receive the same, to such other person as the court may direct) of such sums of money as may be adjudged proper, and shall render judgment for the same, specifying the terms of payment; and shall require of such defendant, if he be in custody, to replevy such judgment by good freehold surety, or, in default thereof, shall commit such defendant to jail. And should the defendant fail to replevy or pay said judgment, and in default thereof be committed to jail, and upon proof thereof being made to the court, that the defendant has been imprisoned in the jail of the county for a period of twelve months from the date of his imprisonment, and that he is unable to pay or replevy the same, he may be released from imprisonment by an order of the court, made at any regular term of said court; which order of release shall be entered upon the records of said court.

SEC. 1028. *Execution without relief.*—Execution may issue on such judgments, whenever any amount is due on the same; and shall be executed without any relief whatever from valuation or appraisement laws.

SEC. 1029. *Suit, how dismissed—Entry.*—The prosecuting witness, if an adult, may, at any time before final judgment, dismiss such suit, if she will first enter of record an admission that provision for the maintenance of the child has been made to her satisfaction; and if such witness be a minor, she may dismiss such suit, if it be first shown to the satisfaction of the court in which the same is pending, that suitable provision has been made and properly secured for the maintenance of the child, and a finding of the court to that effect entered of record. And such entry, in either case, shall be a bar to all other prosecutions for the same cause and purpose.

SEC. 1030. *Limitation two years.*—No prosecution under this act shall be instituted after two years from the birth of such bastard child.

SEC. 1031. *Judgment may be reduced on child's death.*—Upon the death of any bastard child after judgment rendered as aforesaid, and before the expiration of the time limited for the last payment on such judgment, the court rendering such judgment may make such reduction in the amount of the same as may be rendered proper and just in consequence of such death.

SEC. 1032. *Child's death not to abate or bar.*—The death of a bastard child shall not be cause of abatement or bar to any prosecution for bastardy; but the court trying the same shall, on conviction, give judgment for such sum as shall be deemed just.

SEC. 1033. *Prosecutor conducts suit.*—The several prosecuting attorneys within their respective circuits shall prosecute all causes originating under this act.

SEC. 1034. *Defendant dying, action survives.*—In the case of the death of the putative father of such child, either before or after the commencement of prosecution, and after the preliminary examination before the justice, the right of action shall survive, and may be prosecuted against the personal representatives of the deceased with like effect as if such father were living, except that no arrest of such personal representatives shall take place or bond be required.

SEC. 132. *Judges—Jurisdiction.*— * * * The appellate court of Indiana shall * * * have exclusive jurisdiction * * * of appeals from the circuit, superior, and criminal courts, in the following classes of cases:

Tenth. All cases of bastardy.

SEC. 1060. *Marriages voidable—Issue legitimate.*—When either of the parties to a marriage shall be incapable, from want of age or understanding, of contracting such marriage, the same may be declared void, on application of the incapable party, by any court having jurisdiction to decree divorces; but the children of such marriage, begotten before the same is annulled, shall be legitimate; and in such cases the same proceedings shall be had as provided in applications for divorce.

Void marriages. contracting such marriage, the same may be declared void, on application of the incapable party, by any court having jurisdiction to decree divorces; but the children of such marriage, begotten before the same is annulled, shall be legitimate; and in such cases the same proceedings shall be had as provided in applications for divorce.

SEC. 1061. *Issue of certain marriages legitimate.*—The issue of a marriage, void on account of consanguinity, affinity, or difference of color shall be deemed to be legitimate.

SEC. 1062. *When issue legitimate, though former marriage exists.*—When either of the parties to a marriage, void because a former marriage exists undissolved, shall have contracted such void marriage in the reasonable belief that such disability did not exist, the issue of such marriage, begotten before the discovery of such disability by such innocent party, shall be deemed legitimate.

SEC. 1063. *Proceedings to determine legitimacy.*—For the purpose of evidence, any person or persons interested in the question of such legitimacy may file his petition in the circuit court or superior court of any county in this State where either of the parties to said marriage may reside, setting forth the facts, and making defendants thereto all persons interested in such question, and give such notice to said defendants as is by this act required to be given to the defendant on a petition for a divorce; and the court, on hearing such petition, shall decree such issue to be legitimate or illegitimate, as the facts may be, and from such decree an appeal may be taken to the supreme court, and when taken, the case shall be governed by the same rules and disposed of as other civil actions are in cases of appeal.

SEC. 1064. *Decree conclusive—Review by infant.*—Such decree as shall be finally rendered in cases provided for in the next preceding section shall be conclusive between the parties thereto and those claiming under them; but any minor defendant may have the same reviewed, at any time within one year after arriving at the age of twenty-one years.

SEC. 2998. *To illegitimate child from mother.*—Illegitimate children shall inherit from the mother as if they were legitimate, and through the mother, if dead, any property or estate which she would, if living, have taken by gift, devise, or descent from any other person.

SEC. 3000. *Illegitimate child inheriting from father.*—That the illegitimate child or children of any man dying intestate and having acknowledged such child or children during his lifetime as his own, shall inherit his estate, both real and personal, and shall be deemed and taken to be the heir or heirs of such intestate in the same manner and to the same extent as if such child or children had been legitimate: *Provided*, That the testimony of the mother of such child or children shall in no case be received to establish the fact of such acknowledgment: *And be it provided*, That the provisions of this act shall not apply where the father of the illegitimate child, at his death, had surviving legitimate children or descendants of legitimate children.

SEC. 3001. *Bastard; how made legitimate.*—If a man shall marry the mother of an illegitimate child, and acknowledge it as his own, such child shall be deemed legitimate.

SEC. 3002. *From illegitimate child to mother.*—The mother of an illegitimate child dying intestate, without issue or other descendants, shall inherit his estate; and if such mother be dead, her descendants or collateral kindred shall take the inheritance in the order hereinbefore prescribed.

SEC. 3678 h. *Maternity hospitals—Name of child.*— * * *. The surname of the child, if illegitimate, shall be that of the mother. * * *.

SEC. 3678 j. *Expenses collectible from county.*—The necessary expenses of the confinement of the mother of an illegitimate child and the care of the

Maternity hospitals and maintenance child in any maternity hospital, as defined in section 2 of this act, or other place designated for the care of such child by the board of State charities, shall, unless paid within four months after such confinement, be a charge upon and collectible from the county in this State in which such woman had legal settlement immediately before entering such maternity hospital, and shall be paid by the proper officials of such county upon due proof thereof, to the person or institution entitled to reimbursement or the board of State charities; and an illegitimate child which becomes a public charge shall immediately be taken, by a person authorized by the board of State charities, at such time as said board shall deem advisable, to the county in which the mother had legal settlement at the time such child became a public ward, and shall thereafter continue to be a charge upon such county until otherwise provided for. The expenses incurred in taking such child to said county shall be paid by said county. The expenses collectible from the county for the mother of an illegitimate child during her confinement shall be one dollar (\$1.00) per diem, and the expenses collectible from the county for an illegitimate child shall be thirty-five (35) cents per diem for the maintenance, and traveling expenses in addition thereto. In case it is impossible to establish the legal settlement of any child or the mother thereof it shall become a ward of the county in which it was born: *Provided*, That nothing herein shall be construed to dispense with the necessity of making any child a public ward by the juvenile court having

jurisdiction or the judge thereof in vacation, but the presence of such child before said court or judge shall not be necessary in case the infant be of tender years.

SEC. 8377. *Marriage to escape bastardy prosecution—Abandonment penalty.*—That any male person who being at the time under or liable to a prosecution, either civil or criminal, for seduction or bastardy, fraudulently enters into a marriage with the female who has been seduced or who is the mother of the bastard child, with the intent thereby to escape or avoid such prosecution or the consequences thereof, and who within two years after such marriage, without just cause, shall abandon his wife, or who shall, within such time, cruelly and inhumanly mistreat such wife, or fail and neglect to make reasonable provision for her support, shall be liable to an action for the recovery of a penalty which shall in no case be less than \$200.

SEC. 8378. *Action for penalty.*—Such action shall be instituted in the name of the State of Indiana on the relation of the wife, but such wife shall not be liable for the costs of the action, as are relators in other cases, except that she have property of a value exceeding \$600.

SEC. 8379. *Legal settlement of action.*—No action under the provisions of this act shall be instituted after three years from the time of the marriage.

SEC. 8380. *Jurisdiction of action—Practice.*—The action may be commenced before any justice of the peace or in any circuit court of the State (where the defendant may be at the time such action is commenced) and the process shall be a warrant, and the practice in such cases as to the execution of the bond, examination by the justice, commitment of the defendant for failure to give bond, trial, judgment, commitment for nonpayment or failure to secure the judgment rendered in the circuit court, execution and as to all other matters shall be governed by the laws now in force governing prosecutions for bastardy: *Provided*, That if the defendant fail to pay or replevy said judgment, and in default thereof be committed to jail, and upon proof thereof being made to the court, that the defendant has been imprisoned in the jail of the county for one year and that he is unable to pay or replevy the judgment, he may be released from imprisonment by an order of the court, if the judge is of the opinion that the defendant has been sufficiently punished, which order of release shall be entered upon the records of said court.

SEC. 9745. *Legal settlement; how acquired or lost.*—Legal settlement may be acquired in any township or county so as to oblige such township or county to relieve and support the person acquiring such settlement, in case he is poor and in need of relief, as follows:

3. Illegitimate children shall follow and have the settlement of their mother at the time of their birth, if she then had any within the State; but neither legitimate nor illegitimate children shall gain a settlement by birth in the place where they were born unless their parent or parents had a settlement therein at the time.

NOTE ON WORKMEN'S COMPENSATION ACT.—The word "child" includes acknowledged illegitimate children. (Laws 1915, ch. 106, sec. 33.)

IOWA.

Code, 1897; Supplements 1913-1915.

SECTION 2216. *Who liable to maintain.*—The father, mother and children of any poor person, who is unable to maintain himself or herself by labor, shall jointly or severally relieve or maintain such person in such manner as, upon application to the township trustees of the township where such person has a residence or may be, they may direct.

SEC. 2224. *Settlement; how acquired.*—A legal settlement once acquired continues until lost by acquiring a new one, and may be acquired as follows:
5. Illegitimate minor children follow and have the settlement of their mother, or, if she has none, then that of their putative father.

SEC. 2250. *Illegitimates.*—The word "father" in this chapter includes the putative father of an illegitimate child, and the question of parentage may be tried in any proceeding to recover for or compel the support of such a child, and like proceedings may be prosecuted against the mother independently or jointly with the alleged father.

SEC. 3150. *Issue legitimized.*—Illegitimate children become legitimate by the subsequent marriage of their parents.

SEC. 3185. *Children—Legitimacy.*—When a marriage is annulled on account of the consanguinity or affinity of the parties, the issue shall be illegitimate; if because of the impotency of the husband, any issue of the wife shall be illegitimate; but when on account of nonage, insanity or idiocy, the issue will be legitimate as to the party capable of contracting the marriage.

SEC. 3186. *Prior marriage*.—When a marriage is annulled on account of a prior marriage and the parties contracted the second marriage in good faith, believing the prior husband or wife to be dead, that fact shall be stated in the decree of nullity, and the issue of the second marriage begotten before the decree of the court will be the legitimate issue of the parent capable of contracting.

SEC. 3384. *Illegitimate children; inherit from mother*.—Illegitimate children inherit inheritance from their mother, and she from them.

SEC. 3385. *From father*.—They shall inherit from the father when the paternity is proven during his life, or they have been recognized by him as his children; but such recognition must have been general and notorious, or else in writing. Under such circumstances, if the recognition has been mutual, the father may inherit from his illegitimate children.

SEC. 5629. *Complaint*.—When any woman residing in any county of the State is delivered of an illegitimate child, or is pregnant with a child which, if born alive, will be illegitimate, complaint may be made in writing by any person to the district court of the county where she resides, stating that fact, and charging the proper person with being the father thereof. The proceedings shall be entitled in the name of the State against the accused as defendant.

SEC. 5630. *Notice*.—Upon the filing of the complaint, the clerk shall cause notice to be given to the person so charged as in an ordinary action.

SEC. 5631. *Lien created*.—From the time of the filing of such complaint, a lien shall be created upon the real property of the accused in the county where the action is pending for the payment of any money and the performance of any order adjudged by the proper court.

SEC. 5632. *Attachment*.—If the complaint is verified, the district judge may order an attachment to issue thereon without bond, which order shall specify the amount of property to be seized thereunder, and may be revoked at any time by such judge or the district court, on a showing made to either for a revocation of the same, and on such terms as such court or judge may deem proper in the premises.

SEC. 5633. *County attorney to prosecute*.—The county attorney, on being notified of the facts justifying a complaint as provided in this chapter, or of the filing of such complaint, shall prosecute the matter in behalf of the complainant.

SEC. 5634. *Issue; how tried*.—The issue on the trial shall be "guilty" or "not guilty," and shall be tried as an ordinary action.

SEC. 5635. *Judgment and execution*.—If the accused be found guilty, he shall be charged with the maintenance of the child in such sum or sums, and in such manner, as the court shall direct, and with the costs of the action; and the clerk may immediately issue execution for any sum ordered to be paid, and afterward, from time to time, as it shall be required to compel compliance with the order of the court.

SEC. 5636. *Change of order*.—The court may at any time increase or diminish such sums, or vacate any order or judgment rendered in the proceeding herein contemplated, on such notice to the defendant as the court or judge may prescribe.

NOTE ON ADOPTION LAW.—The adoption act requires, if the parents are unmarried, the consent of the parent lawfully having the care and providing for the wants of the child. (Sec. 3251.)

NOTE ON CHILDREN'S HOMES.—Children may be surrendered to such society by the mother alone, if the child is illegitimate and in her care and custody. (Sec. 3260c, Supp. 1913.)

NOTE ON BIRTH REGISTRATION.—Birth certificate on United States Census Bureau standard form. (Laws 1917, ch. 326, sec. 6.)

KANSAS.

General Statutes, 1915.

SECTION 3844. *Illegitimate children inherit; how*.—Illegitimate children inherit from the mother, and the mother from the children.

SEC. 3845. *Inherit from father; when*.—They shall also inherit from the father whenever they have been recognized by him as his children; but such recognition must have been general and notorious, or else in writing.

SEC. 3846. *Father may inherit*.—Under such circumstances, if the recognition of relationship has been mutual the father may inherit from his illegitimate children.

SEC. 3847. *Inheritance from illegitimate child; mother and heirs take preference*.—In thus inheriting from an illegitimate child, the mother and her heirs take preference of the father and his heirs.

SEC. 5117. *Father arrested.*—When any unmarried woman who has been delivered of or is pregnant with a bastard child shall make a complaint thereof in writing under oath, before any justice of the peace, charging any person with being the father of such child, such justice shall by his warrant cause such person to be arrested and brought before him.

SEC. 5118. *Justice to hear complaint.*—Upon the arrest of such person, such justice shall proceed to hear such complaint.

SEC. 5119. *Prosecution—Evidence.*—The prosecution shall be in the name of the State of Kansas, on the relation of the prosecuting witness; but the rules of evidence and the competency of witnesses shall be the same as in civil cases.

SEC. 5120. *Testimony of mother.*—The testimony of the mother shall be by such justice reduced to writing, read carefully to her, and by her be signed, and shall by such justice be returned to the district court with the other papers in such case. The failure of the justice so to do shall not be ground of dismissal in the district court, but such justice shall recover no fees in such case.

SEC. 5121. *When defendant adjudged father, he shall enter into recognizance to appear.*—If the justice on the hearing adjudge the defendant to be the father of such child, he shall require him to enter into a recognizance in a sum not less than two hundred nor more than one thousand dollars, with sufficient sureties, payable to the State of Kansas, and conditioned that he will appear at the next term of the district court of such county to answer such complaint and not depart without leave, and abide the judgment and orders of such court; and if the defendant fail to enter into such recognizance, the justice shall commit him to jail until he be discharged by due course of law.

SEC. 5122. *Transmission of papers to district court.*—After such hearing the justice shall transmit any recognizance in such case, together with a transcript of his proceedings and the other papers in the cause, without delay, to the clerk of the district court of the proper county.

SEC. 5123. *Discharge.*—Any person committed to jail for failure to give such recognizance may be discharged from custody by entering into such recognizance, with sufficient sureties, at any time after his commitment; such recognizance to be taken and approved by the justice before whom such proceeding was had.

SEC. 5124. *Trial and proceedings as in civil actions.*—The trial and proceedings of such prosecution, both before the justice and in the district court, shall in all respects not herein otherwise provided for be governed by the law regulating civil actions.

SEC. 5125. *Continuance.*—Upon any continuance granted either party, the court or justice granting the same shall require the defendant to enter into recognizance for his appearance at the time to which the cause may be continued, and in default of such recognizance, shall commit him to jail until he shall give such recognizance, or be discharged by due course of law.

SEC. 5126. *Death of mother.*—The death of the mother shall not abate such prosecution if the child is living; but a suggestion of record of the fact shall be made, and the name of the child substituted in the proceedings for that of the mother, and a guardian for the suit shall be appointed for that purpose, who shall not be liable for costs; and in such case the testimony of the mother taken in writing before the justice may be read in evidence, and shall have the same force as if she were living and had testified to the same in court.

SEC. 5127. *Trial.*—If the defendant in the district court deny the charge, the issue shall be tried by the court or a jury.

SEC. 5128. *Father charged with maintenance and education.*—If the court or jury find that the defendant is the father of such child, or such defendant in court shall confess the same, he shall be adjudged the father of such child, and stand charged with the maintenance and education thereof.

SEC. 5129. *Judgment.*—Such court shall, on such finding or confession, render such judgment and make such order as may seem just for securing the maintenance and education to such child, by the annual payment to the mother, or if she be dead or an improper person to receive the same, to such other person as the court may direct, and of such sum or sums of money as the court may order, payable at such time or times as may be adjudged proper. The judgment shall specify the terms of payment, and shall require of such defendant, if he be in custody, to secure the payment of such judgment by good and sufficient sureties; or, in default thereof, he shall be committed to jail until such security is given.

SEC. 5130. *Imprisonment of father.*—No person adjudged to be the father of a bastard child shall be imprisoned for any failure to comply with any order, direction or judgment of the court or justice, for a term exceeding one year.

SEC. 5131. *Execution.*—Execution may issue on such judgment whenever any amount is due on the same, and shall be executed as in other cases.

SEC. 5132. *Dismissal of suit.*—The prosecuting witness may, at any time before final judgment, dismiss such suit, if she shall enter of record an admission that provision for the maintenance of the child has been made to her satisfaction; such entry shall be a bar to all other prosecutions for the same cause and purpose.

SEC. 5133. *Limitation.*—No prosecution under this act shall be instituted after two years from the birth of such bastard child.

SEC. 5134. *Reduction in payment upon death of child.*—Upon the death of any bastard child, after judgment rendered as aforesaid, and before the expiration of the time limited for the last payment on such judgment, the court rendering such judgment may make such reduction in the amount of the same as may be rendered proper and just in consequence of such death.

SEC. 5135. *Death of child.*—The death of a bastard child shall not be cause of abatement or bar to any prosecution for bastardy; but the court trying the same shall on conviction give judgment for such sum as shall be deemed just.

SEC. 5136. *Prosecution.*—The several county attorneys within their respective counties shall prosecute all causes originating under this act.

SEC. 5137. *Survival of action.*—In case of the death of the putative father of such child, after the preliminary examination before the justice, the right of action shall survive and may be prosecuted against the personal representatives of the deceased, with like effect as if such father were living, except that no arrest of such personal representatives shall take place, or recognizance be required of them.

SEC. 5138. *Repeal.*—That an act entitled "An act for the maintenance and support of illegitimate children," approved February 10, 1859, and all acts amendatory and supplemental thereto, be and the same are hereby repealed.

SEC. 6135. *Persons between whom marriages declared incestuous and void.*—All marriages between parents and children, including grandparents and grandchildren of any degree, between brothers and sisters of the one-half as well as the whole blood,

Incestuous marriages.—and between uncles and nieces, aunts and nephews, and first cousins, are declared to be incestuous and absolutely void. This

section shall extend to illegitimate as well as legitimate children and relations.

SEC. 7585. *Marriage by incapables may be annulled.*—When either of the parties to a marriage shall be incapable, from want of age or understanding, of contracting such marriage, the same may be declared void by the district court, in an action brought by the incapable party; but the children of such a marriage, begotten before the same is annulled, shall be legitimate. Cohabitation after such incapacity ceases shall be sufficient defense to any such action.

SEC. 6821. *Relief of the poor—Settlements.*—Legal settlements may be acquired in any county so as to oblige such county to relieve and support the

Residence.

persons acquiring such settlement, in case they are poor and stand in need of relief, as follows:

Third. Illegitimate children shall follow and have the settlement of their mother at the time of their birth, if she then have any within the State; but neither legitimate nor illegitimate children shall gain a settlement by birth in the place where they were born, unless their parent or parents had a settlement therein at the time.

KENTUCKY.

Statutes 1915.

SECTION 166. *Who deemed bastards.*—Every child shall be deemed a bastard who shall be begotten and born out of lawful wedlock; and in cases where a woman shall

Illegitimacy proceedings.—have been divorced from her husband on the ground of her being pregnant by another man at the time of her intermarriage, and having concealed her pregnancy from her husband, the child of which she was thus pregnant shall be deemed a bastard for all purposes whatever.

SEC. 167. *Charge of bastardy; how made—Duty of clerk.*—Any unmarried woman may go before the clerk of the county court of the county wherein she has been delivered of a bastard child, or of the county of her residence, if she was delivered thereof in another State, and accuse any person of being the father of the child. The clerk shall examine the mother of such bastard child, under oath, concerning her residence, and her marriage or single condition when the child was begotten; where and when she was delivered of such child; and if she was delivered of the child out of this Commonwealth, of the reason thereof, and reduce her statement to writing, and sign the same as clerk. If, however, the clerk fail to reduce the statement to writing, or if it should be lost, such failure or loss shall be no cause for dismissing the warrant.

SEC. 168. *Warrant: issued by clerk—Arrest and bond for appearance.*—On such examination, if the child appear to be less than three years old, a warrant shall be issued by the clerk, directed to the sheriff or any constable, requiring the person accused

to be arrested and brought before the county judge of the county wherein he may be found, who shall require him to enter into bond, with good security, in a sum to be fixed by such judge, not exceeding two thousand five hundred dollars, for his appearance in the county court of the county in which the warrant issued, on the first day of the next term thereof, and to perform the judgment of said court.

SEC. 169. *Commitment to jail upon failure to give bond.*—If the person accused shall fail to give the bond required of him, the judge shall forthwith commit him to the jail of the county whence the warrant issued, there to remain until he enter into the required bond, or otherwise be discharged by due process of law.

SEC. 170. *Proceedings—Continuance—Nonappearance—Forfeiture of bond.*—Should the case be continued at any term of the court, the bond may also be continued by the consent, in open court, of the accused and his sureties, or a new bond given; or, on the failure of the accused to give bond, he shall be committed to jail, there to remain until such bond is given, or the cause is tried. But should the accused fail to appear, as required by his bond, and remain to respond to and satisfy any judgment that may be rendered against him, the bond for his appearance as aforesaid shall be forfeited, and judgment rendered thereon; but, if, after judgment is rendered against the surety or sureties, such surety or sureties, or one of them, shall enter into bond, with good security, to be approved by the court, conditioned to pay such sums as may be adjudged against the accused, in such installments as the court may direct, as hereinafter provided, then in that case the court shall set aside the judgment upon the forfeiture, the costs, including fifteen per centum upon the amount of the bond to the county attorney, having been first paid by such surety or sureties.

SEC. 171. *Trial to proceed in absence of accused.*—If the accused shall fail to appear, the trial of, or other proceedings in the cause, shall, nevertheless, proceed as though he were present; and the court shall, upon the verdict of the jury, make all such orders as it shall deem proper, precisely as though the accused were in court, or make all such orders as it shall deem proper to carry out the provisions of the preceding section, should the surety or sureties, or either of them, avail himself or themselves of the provisions thereof.

SEC. 172. *Evidence—Child born in another State no cause for dismissal.*—On the trial of the cause, the mother of the child, unless she is otherwise incompetent, may be a witness for all purposes; and if the party accused desire it, unless he is otherwise incompetent, he shall be examined on oath. Other evidence may be adduced by either party. That the child was delivered in another State shall be no cause for dismissing the warrant, if the mother be a bona fide resident of this Commonwealth at the time the child was begotten or born.

SEC. 173. *Verdict for accused—Effect—New trial.*—If the finding of the jury shall be in favor of the accused, he shall be discharged, unless there be a motion for a new trial, in which case, he shall be held until such motion be disposed of; and if a new trial is granted, the same course shall be pursued toward the accused as in case of continuance.

SEC. 174. *Judgment against accused—Payment in installments—Forfeiture of bond.*—If the finding of the jury be against the accused, they shall find what sum he shall pay per year, and for what number of years; and the court, in rendering judgment thereon, shall make an order for the annual payment in such installments (monthly, quarterly, or half-yearly) as shall seem best, and shall also make such order for the keeping, maintenance and education of the child as may be proper; and in case of forfeiture and judgment thereon, should the surety or sureties, or either of them, fail or refuse to avail himself or themselves of the provisions hereof, the money collected upon the judgment upon the forfeiture, after payment of the costs and fifteen per cent to the county attorney, shall be applied in payment of the judgment against the accused; and if any balance remains after the payment of said judgment, it shall be paid to the custodian of the public money.

SEC. 175. *Proceedings after verdict where accused has not given bond—Insolvent debtor.*—The accused who has failed to execute bond before judgment, if he shall be adjudged to be the father of the child, shall thereupon enter into bond with good security, to be approved by the court, conditioned for the payment of the sums adjudged, in such installments as the court shall direct. In case of his failure to enter into such bond, the court shall commit him to jail, there to remain until he shall give such bond, pay the money, or be discharged as an insolvent debtor, having first given to the county attorney ten days' notice of his intended application for such discharge.

SEC. 176. *Bond; how enforced—Effect of death of child.*—If the bond required be given, the payment of the installments therein set forth may be enforced by rule and attachment, or by execution, which may issue upon said bond as executions issued upon replevin bonds. If the child shall die before the expiration of aforesaid bond, the person adjudged to be the father of the child shall, by order of the court, be discharged therefrom, upon payment by himself or sureties of the amount owing upon the same at the date of the death of the child.

SEC. 177. *Appeal—Liability of sureties in bond.*—If the adjudged father shall appeal, with a supersedeas, to the court of appeals from the decision of the circuit court, and the decision shall be affirmed, the sureties in the appeal or supersedeas bond shall be liable for all the father had been adjudged to pay, and also the costs and ten per centum damages on the appeal, and the Attorney General shall defend said appeal without fee.

SEC. 178. *Costs—Fee of county attorney.*—If the jury shall find against the person accused, he shall be adjudged to pay costs; and the court shall allow to the county attorney, if he prosecute, a fee, which shall be taxed as part of the costs.

SEC. 179. *Bonds; form of.*—The following shall be the form of the bonds mentioned in this chapter, which may be varied to suit each case: "....., being in custody on a charge of bastardy, we (or I, as the case may be) agree that he shall appear in the county court on the first day of its next term, and surrender himself in custody, and not depart until he has performed the orders and judgments of said court made in the prosecution of said charge; and if he fails in any of these things, we will pay to the Commonwealth of Kentucky dollars. This day of, 18... Attested:, county judge.

"We,, principal, and, surety, undertake that we will pay to the Commonwealth of Kentucky such sums as may hereafter be adjudged against, now standing charged in the county court of, with being the father of a bastard child, of which is the mother, in such installments as the court may hereafter direct. Attest:, county clerk."

SEC. 180. *Bond; defective in form or substance.*—No person shall be released from liability on any bond provided for in this chapter for defects in the form or substance of it, if it can be ascertained from it that such person intended to bind himself to perform, or that any other person shall perform, any act under the law in regard to bastardy.

SEC. 181. *Mother deaf and dumb or unable to speak English—Duty of court and officers.*—If any woman, the mother of a bastard child, who may be deaf and dumb, or who may be unable to speak the English language intelligibly, shall desire to avail herself of the benefits of this chapter, in favor of herself and her bastard child, it shall be the duty of the clerk to whom she may apply to procure the services of a discreet and competent person to act as interpreter, one who is able to understand what the applicant shall desire to communicate, by comprehending her signs, tokens, characters, or her language; and having first administered to such interpreter an oath faithfully to discharge his or her duty as such, shall proceed to learn the facts which, by this chapter, he is required to ascertain. He shall thereupon proceed, in all respects, in the same manner as is directed in this chapter in regard to bastardy cases. Upon the hearing in the county court, an interpreter may be called and used as a witness, as in other cases in which that method of obtaining testimony is or may be resorted to as authorized by law.

SEC. 1220. *Concealing birth or destroying bastard child.*—If any woman be delivered of any issue of her body, which, being born alive, would be a bastard, and she, of tard, shall endeavor privately, by drowning or secretly burying the same, or in any other way, directly or indirectly, to conceal the birth thereof, so that it may not be known whether it was born alive or not, she shall be confined in the penitentiary not less than one nor more than five years.

SEC. 1397. *Bastards; descent of estate of; inheritance by.*—The estate of bastards shall descend and be distributed in the same manner as that of persons born in lawful wedlock; except that the inheritance shall go to the mother and her kindred; and bastards shall be capable of inheriting from their mother and their mother's kindred in the same manner.

SEC. 1398. *Children born before marriage; when legitimate.*—If a man having had a child by a woman shall afterwards marry her, such child or its descendants, if recognized by him before or after marriage, shall be deemed legitimate.

SEC. 2098. *Children of illegal or void marriage legitimate—Exceptions.*—The issue of an illegal or void marriage shall be legitimate, except that the issue of an incestuous marriage, found such by the conviction or judgment of a court, in the lifetime of the parties, or of a marriage between a white person and a negro or mulatto, shall not be legitimate; and where one of the parties is an idiot or lunatic, the issue shall be legitimate as to both.

SEC. 2099. *Children of bigamous marriage legitimate; when.*—Where the marriage is contracted in good faith, and with the belief of the parties that a former husband or wife then living was dead, the issue of such marriage, born or begotten before notice of the mistake, shall be the legitimate issue of both parents.

NOTE ON MARRIAGES OF FORMER SLAVES.—Marital cohabitation of colored persons prior to emancipation legitimizes issue. (Secs. 1399a, 1399b.)

NOTE ON INCESTUOUS MARRIAGES.—The law applies to illegitimate children and relatives. (Sec. 2096.)

NOTE ON BIRTH REGISTRATION.—Birth certificate on United States Census Bureau standard form. (Sec. 2062a.14.)

NOTE ON WORKMEN'S COMPENSATION.—"Child" includes recognized illegitimate children. (Laws 1916, ch. 33, sec. 14.)

LOUISIANA.

Merrick's Revised Civil Code, 1912.

ARTICLE 27. Legitimate children are those who are born of a marriage lawfully contracted; and illegitimate children are such as are born from an illicit union.

Definitions.

ART. 180. *Illegitimate children*.—Illegitimate children are those who are born out of marriage.

Illegitimate children may be legitimated in certain cases in the manner prescribed by law.

ART. 181. There are two sorts of illegitimate children:

Those who are born from two persons who, at the moment when such children were conceived, might have legally contracted marriage with each other; and those who are born from persons to whose marriage there existed at the time some legal impediment.

ART. 182. *Adulterous bastards*.—Adulterous bastards are those produced by an unlawful connection between two persons who, at the time when the child was conceived, were, either of them or both, connected by marriage with some other person.

ART. 183. *Incestuous bastards*.—Incestuous bastards are those who are produced by the illegal connection of two persons who are relations within the degrees prohibited by law.

NOTE ON PROHIBITED DEGREES IN MARRIAGE.—Law applies to illegitimate children and relatives. (Civil Code, arts. 94, 95.)

ART. 184. The law considers the husband of the mother as the father of all children conceived during the marriage.

Presumption and proof of legitimacy.

ART. 185. The husband can not, by alleging his natural impotence, disown the child; he can not disown it even for cause of adultery, unless its birth has been concealed from him, in which case he will be permitted to prove that he is not its father.

ART. 186. The child capable of living, which is born before the one hundred and eightieth day after the marriage, is not presumed to be the child of the husband; every child born alive more than six months after conception is presumed to be capable of living.

ART. 187. The same rule applies with respect to the child born three hundred days after the dissolution of the marriage, or after the sentence of separation from bed and board.

ART. 188. The legitimacy of the child born three hundred days after the separation from bed and board has been decreed may be contested, unless it be proved that there had been cohabitation between the husband and wife since such decree, because it is always presumed that the parties have obeyed the sentence of separation.

But in case of voluntary separation, cohabitation is always presumed, unless the contrary be proved.

ART. 189. The presumption of paternity as an incident to the marriage is also at an end, when the remoteness of the husband from the wife has been such that cohabitation has been physically impossible.

ART. 190. The husband can not contest the legitimacy of the child born previous to the one hundred and eightieth day of marriage, in the following cases:

1. If he was acquainted with the circumstances of his wife being pregnant previously to the marriage.

2. If he was present at the registering of the birth or baptism of the child and signed the same, or if not knowing how to sign, he put his ordinary mark to it in the presence of two witnesses.

ART. 191. In all the cases above enumerated, where the presumption of paternity ceases, the father, if he intends to dispute the legitimacy of the child, must do it within one month, if he be in the place where the child is born, or within two months after his return, if he be absent at that time, or within two months after the discovery of the fraud, if the birth of the child was concealed from him, or he shall be barred from making an objection to the legitimacy of such child.

ART. 192. If the husband die without having made such objection, but before the expiration of the time directed by law, two months shall be granted to his heirs to contest the legitimacy of the child, to be counted from the time when the said child has taken possession of the estate of the husband, or when the heirs shall have been disturbed by the child in their possession thereof.

ART. 193. The filiation of legitimate children may be proved by a transcript from the register of birth or baptism, kept agreeably to law or to the usages of the country.

ART. 194. If the register of births and baptisms is lost, or if no such register has been kept, it suffices for the child to show that he has been constantly considered as a child born during marriage.

ART. 195. The being considered in this capacity is proved by a sufficient collection of facts demonstrating the connection of filiation and paternity which exists between an individual and the family to which he belongs.

The most material of these facts are:

That such individual has always been called by the surname of the father from whom he pretends to be born;

That the father treated him as his child, and that he provided as such for his education, maintenance, and settlement in life;

That he has constantly been acknowledged as such in the world;

That he has been acknowledged as such within the family.

ART. 196. If there be neither register of birth nor baptism, nor this general reputation, or if the child has been registered under a false name, or as born of unknown parents, also if the child has been exposed or abandoned, or if his condition has been suppressed, the proof of his legitimate filiation may be made either by written or oral evidence.

ART. 197. Proof against the legitimate filiation may be made by evidence that the plaintiff is not the child of the mother whom he pretends to be his, and the maternity being proved, that he is not the child of the husband of the mother.

ART. 198. *Subsequent marriage.*—Children born out of marriage, except those who are born from an incestuous or adulterous connection, may be legitimated by the subsequent marriage of their father and mother, whenever the latter have legally acknowledged them for their children, either before their marriage by an act passed before a notary and two witnesses, or by their contract of marriage itself.

Legitimation.

ART. 199. *Rights of legitimated children.*—Children legitimated by a subsequent marriage have the same rights as if they were born during marriage.

ART. 200. *Notarial acknowledgment.*—A natural father or mother shall have the power to legitimate his or her natural children by an act passed before a notary and two witnesses, declaring that it is the intention of the parent making the declaration to legitimate such child or children. But only those natural children can be legitimated who are the offspring of parents who, at the time of conception, could have contracted marriage. Nor can a parent legitimate his or her natural offspring in the manner prescribed in this article, when there exists on the part of such parents legitimate ascendants or descendants.

ART. 201. *Legitimation of deceased child.*—Legitimation may even be extended to deceased children who have left issue, and in that case it inures to the benefit of such issue.

ART. 202. *Natural children—Bastards.*—Illegitimate children who have been acknowledged by their father are called natural children; those who have not been acknowledged by their father or whose father and mother were incapable of contracting marriage at the time of conception, or whose father is unknown, are contradistinguished by the appellation of bastards.

ART. 203. *The acknowledgment.*—The acknowledgment of an illegitimate child shall be made by a declaration executed before a notary public, in presence of two witnesses, by the father and mother, or either of them, whenever it shall not have been made in the registering of the birth or baptism of such child.

ART. 204. *Bastards.*—Such acknowledgment shall not be made in favor of children whose parents were incapable of contracting marriage at the time of conception.

ART. 205. *Father's acknowledgment.*—The acknowledgment made by the father without the concurrence or consent of the mother, shall have effect only with respect to the father.

ART. 206. *Rights of natural children.*—Illegitimate children, though duly acknowledged, can not claim the rights of legitimate children. The rights of natural children are regulated under the title: Of Successions.

ART. 207. *Id.; contestation of.*—Every claim set up by natural children may be contested by those who have any interest therein.

ART. 208. *Proof of paternity allowed.*—Illegitimate children who have not been legally acknowledged may be allowed to prove their paternal descent.

ART. 209. *Id.; how made.*—In the case where the proof of paternal descent is authorized by the preceding article, the proof may be made in either of the following ways:

1. By all kinds of private writings in which the father may have acknowledged the bastard as his child, or may have called him so.

2. When the father, either in public or in private, has acknowledged him as his child, or has called him so in conversation, or has caused him to be educated as such.

3. When the mother of the child was known as living in a state of concubinage with the father, and resided as such in his house at the time when the child was conceived.

ART. 210. *Id.—The oath of the mother.*—The oath of the mother, supported by proof of the cohabitation of the reputed father with her out of his house, is not sufficient to establish natural paternal descent, if the mother be known as a woman of dissolute manners, or as having had an unlawful connection with one or more men (other than the man whom she declares to be the father of the child), either before or since the birth of the child.

ART. 211. *Id.; in case of rape.*—In case of rape, whenever the time of such rape shall agree with the time of conception, the ravisher may, at the suit of the parties concerned, be declared to be the father of the child.

ART. 212. *Proof of maternity.*—Illegitimate children of every description may make proof of their maternal descent, provided the mother be not a married woman.

But the child who will make such proof shall be bound to show that he is identically the same person as the child whom the mother brought forth.

ART. 213. The foundling, whom persons from charity have received and brought up, can not be claimed by its father and mother, unless they prove that the child was taken from them by force, fraud or accident.

No other relation can claim a foundling without having first obtained the tutorship of the foundling and given security in a sum sufficient for the reimbursement of the expenses which it has incurred.

ART. 214. Any person may adopt another as his child, except those illegitimate children whom the law prohibits him from acknowledging.

Adoption.

* * *

ART. 238. *Illegitimate children.*—Illegitimate children, generally speaking, belong to no family, and have no relations; accordingly they are not submitted to the paternal authority, even when they have been legally acknowledged.

ART. 239. *Reciprocal duties of parents and illegitimate children.*—Nevertheless nature and humanity establish certain reciprocal duties between fathers and mothers and their illegitimate children.

Reciprocal duties between illegitimate children and their parents; support.

ART. 240. *Id.—Alimony to illegitimate children.*—Fathers and mothers owe alimony to their illegitimate children when they are in need.

Illegitimate children owe likewise alimony to their father and mother, if they are in need and if they themselves have the means of providing it.

ART. 241. *Id.—Alimony.*—Illegitimate children have a right to claim this alimony, not only from their father and mother, but even from their heirs after their death.

ART. 242. *Alimony when demanded.*—But in order that they may have a right to sue for this alimony, they must:

1. Have been legally acknowledged by both their father and mother, or by either of them from whom they claim alimony; or they must have been declared to be their children by a judgment duly pronounced, in cases in which they may be admitted to prove their paternal or maternal descent;

2. They must prove in a satisfactory manner that they stand absolutely in need of such alimony for their support.

ART. 243. *Id.—Alimony; when not due.*—The obligation of giving such alimony ceases when the illegitimate child is able to earn his subsistence by labor, or whenever his father or mother have caused him to be instructed in an art, trade or profession fit to procure him a sufficient livelihood, unless some continual sickness or infirmity prevents such child from working for his subsistence.

The debt of alimony ceases likewise to be due from the estate of the father or mother of the illegitimate child whenever either of them has provided during his or her life a sufficient maintenance for his or her illegitimate child, or have made to him donations or other advantages which may be sufficient for that purpose.

ART. 244. *Id.—Alimony; other rules as to.*—The other rules established respecting alimony to be granted to legitimate children take place likewise with respect to illegitimate children, except so far as they may be contrary to the foregoing provisions.

ART. 245. *Alimony is due to bastards.*—Alimony is due to bastards, though they may be adulterous and incestuous, by the mother and her ascendants.

ART. 256. The mother is of right the tutrix of her natural child not acknowledged by the father, or acknowledged by him alone without her concurrence.
Guardianship.

After the death of the mother, the father is of right the tutor of his natural child acknowledged by him alone.

The natural child acknowledged by both has for tutor, first the father, in default of him, the mother.

ART. 261. The father or mother who is entitled to the tutorship of the natural child, according to the provisions of article 256, can choose a tutor for him, whose appointment, to be valid, must be approved by the judge.

ART. 917. When the deceased has left neither lawful descendants, nor lawful ascendants, nor collateral relations, the law calls to his inheritance either the surviving husband or wife, or his or her natural children, or the State, in the manner and order hereafter directed.
Inheritance.

ART. 918. Natural children are called to the legal succession of their natural mother, when they have been duly acknowledged by her, if she has left no lawful children or descendants, to the exclusion of her father and mother and other ascendants or collaterals of lawful kindred.

In case the natural mother has lawful children or descendants, the rights of the natural children are reduced to a moderate alimony, which is determined by the rules established in the title: Of Father and Child.

ART. 919. Natural children are called to the inheritance of their natural father, who has duly acknowledged them, when he has left no descendants nor ascendants, nor collateral relations, nor surviving wife, and to the exclusion only of the State.

In all other cases, they can only bring an action against their natural father or his heirs for alimony, the amount of which shall be determined, as is directed in the title: Of Father and Child.

ART. 920. Bastard, adulterous or incestuous children shall not enjoy the right of inheriting the estates of their natural father or mother, in any of the cases above mentioned, the law allowing them nothing more than a mere alimony.

ART. 921. The law does not grant any right of inheritance to natural children to the estate of the legitimate relations of their father or mother.

ART. 922. The estate of a natural child deceased without posterity, belongs to the father or mother who has acknowledged him, or in equal proportions to the father and mother, when he has been acknowledged by both of them.

ART. 923. If the father and mother of the natural child died before him, the estate of such natural child shall pass to his natural brothers and sisters, or to their descendants.

ART. 924. If a married man has left no lawful descendants nor ascendants, nor any collateral relations, but a surviving wife not separated from bed and board from him, the wife shall inherit from him to the exclusion of any natural child or children duly acknowledged.

If, on the contrary, it is the wife who died without leaving any lawful descendants, ascendants, or collateral relations, her surviving husband not separated from bed and board from her, shall not inherit from her, except in case she should leave no natural child or children by her duly acknowledged.

ART. 925. Children called to the succession of their natural father or mother, in the cases mentioned in the preceding articles, are permitted to take possession of the succession which has fallen to them only by the order of the judge of the parish in which the succession is opened.

ART. 926. If the succession be that of the natural mother deceased without legitimate children, the putting into possession of the natural children shall not be pronounced without calling the relations of the deceased, who would have inherited in default of the natural children, if they are present or represented in the State; or without appointing a person to defend them, if they are absent.

ART. 927. If the succession be that of the natural father, the natural children by him acknowledged can not be put into possession of the succession which they claim until a faithful inventory has been made of the same by a notary appointed for that purpose by the judge, in the presence of a person appointed to defend the interest of the absent heirs of the deceased, and on giving good and sufficient security, as is prescribed in the following article.

ART. 928. The security to be furnished by natural children put in possession of the effects of the succession of their father shall be two-thirds of the amount of the inventory made thereof; this security shall be given to insure the restitution of such portion of these effects, which they may be adjudged to restore, in case the legitimate heirs of the father should present themselves within three years from the putting into possession, after which time the security shall be discharged.

ART. 933. The surviving husband or wife and natural children, who shall fail to fulfill any of the formalities or obligations prescribed in the preceding articles, shall be liable to damages toward the heir, if any should be incurred.

ART. 949. Natural children and the surviving husband or wife before being put into possession of the estate left to them, are not considered as having succeeded to the deceased from the instant of his death; but they do not the less transmit their rights to their heirs, if they die before having made their demand to be put into possession. The reason is, that this sort of heirs having only a right of action to cause themselves to be put into possession of successions thus falling to them, this right and this action form a part of their succession, which they transmit to their heirs.

ART. 954. * * *

And the child legitimated by a marriage posterior to its conception only takes those successions which are opened since the marriage of the father and mother.

ART. 1483. Natural children, or acknowledged illegitimate children can not receive from their natural parents, by donations *inter vivos* or *mortis causa* beyond what is strictly necessary to procure them sustenance, or an occupation or profession which may maintain them, whenever the father or the mother who has thus disposed in their favor, leaves legitimate children or descendants.

These donations shall be reducible in case of excess, according to the rules laid down under the title: Of Father and Child.

ART. 1484. When the natural mother has not left any legitimate children or descendants, natural children may acquire from her by donation *inter vivos* or *mortis causa* to the whole amount of her succession.

ART. 1485. But if she has left them only a part, and has disposed of the rest in favor of other persons, her natural children have no action against her heirs for anything more than so much as is wanting to supply the maintenance that is secured to them by law in case what she has left them be not sufficient for their support.

ART. 1486. When the natural father has not left legitimate children, or descendants, the natural child or children acknowledged by him may receive from him, by donations *inter vivos* or *mortis causa*, to the amount of the following proportions, to wit:

One-fourth of his property, if he leave legitimate ascendants or legitimate brothers or sisters or descendants from such brothers and sisters; and one-third if he leave only more remote collateral relations.

ART. 1487. In all cases in which the father disposes, in favor of his natural children, of the portion permitted him by law to dispose of, he is bound to dispose of the rest of his property in favor of his legitimate relations; every other disposition shall be null, except those which he may make in favor of some public institution.

ART. 1488. Natural fathers and mothers can, in no case, dispose of property in favor of their adulterine or incestuous children, unless to the mere amount of what is necessary to their sustenance, or to procure them an occupation or profession by which to support themselves.

ART. 3556. *Signification of words.*—8. Children.—Under this name are comprehended, not only the children of the first degree, but the grandchildren, great grandchildren, and all other descendants in the direct line.

Natural children, even though recognized, make no part of the children properly so called, unless they have been legitimated.

Marr's Annotated Revised Statutes of Louisiana, 1915.

SEC. 4142. That so much of the article two hundred and seventeen as abolishes all other modes of legitimation except that by marriage, be, and the same is hereby repealed, and that law seventh, title fifteenth, of the fourth Partidas, which was repealed by said article of the code, be and the same is hereby revived; and that natural fathers and mothers shall have power to legitimize their natural children, by acts declaratory of their intentions, made before a notary and two witnesses. Nothing herein contained shall be so construed as to prevent a white parent from legitimating a colored child, nor to prevent a person of color from legitimating his colored children: *Provided*, The natural children are the issue of

parents who might, at the time of conception, have contracted marriage: *And provided*, That there do not exist, on the part of the parent legitimating his natural offspring, ascendants or legitimate descendants.

Another way of legitimating natural children is, where a father declares by writing executed by his own hand, or which he causes to be executed by a notary public, and attested by three witnesses, that he acknowledges such a one for his son, designating him expressly by name. But in such acknowledgment the father ought not to say he is his natural son; for if he does the legitimation will have no effect. Likewise, where a man has several children by a concubine (*amiga*), and he acknowledges one of them only in writing, in the manner above mentioned; by such acknowledgment, the other brothers and sisters will be legitimated, though no mention be made of them, so far as to enable them to inherit the estate of their father, as effectually as the one whose name is mentioned in the writing. And what we say in this and the preceding laws, is to be so understood that they who are therein mentioned as being legitimated, can inherit both the estates of their fathers and other relations.

SEC. 4143. Natural fathers and mothers shall have power to legitimate their natural children, by acts declaratory of their intentions, made before a notary public and two witnesses: *Provided*, That there existed at the time of the conception of such children, no other legal impediments to the intermarriage of their natural father and mother except those resulting from color or the institution of slavery.

SEC. 4453. All private or religious marriages contracted in this State, at any time previous to the passage of this act, shall be deemed valid and binding, and as having the same force and effect as if said marriages had been contracted with all the formalities and forms prescribed by the laws then existing: *Provided*, That at any time within two years from the date of this act the parties having contracted such private or religious marriages shall, by an authentic act before a duly commissioned notary public, if they reside in the State, or before a competent officer, if they reside in another State, or before a United States ambassador, *chargé d'affaires*, or consul or vice consul, if they reside in a foreign country, make a declaration of their marriage, the date on which it was contracted, the names, sex and ages of the children born of said marriages, acknowledging said children as their legitimate offspring, and in accepting the benefit of this act bind and obligate themselves to perform all the duties and to assume all the obligations imposed by existing laws in relation to civil marriages, and to abide by the same: *And provided*, That no marriage shall be ratified, nor the issue of such marriage legitimized by or according to the provisions of this act, when there existed, at the date of such private or religious marriage, or at any time since, any other legal impediment to the marriage of the parties to the private or religious marriage than that of race or color.

SEC. 4454. All marriages, duly legalized as aforesaid, shall have, from the date on which they were privately or religiously contracted, full force and effect as if they had been contracted with all the formalities and forms required by the then existing laws, and the children born of said marriages and acknowledged as aforesaid, shall have and enjoy all the rights and privileges granted by existing laws to legitimate children.

NOTE ON WORKMEN'S COMPENSATION LAW.—The law applies to acknowledged illegitimate children. (Laws 1914, no. 20, sec. 8-1 (f12), as amended by Laws 1916, no. 243.)

MAINE.

Revised Statutes, 1916. Ch. 29.

Residence and legitimation. SECTION 1. Settlements, subjecting towns to pay for the support of persons on account of their poverty or distress, are acquired as follows:

III. Children, legitimate or illegitimate, do not acquire a settlement by birth in the town where they are born. Illegitimate children have the settlement of their mother, at the time of their birth, but when the parents of such children born after March 24, 1864, intermarry, they are deemed legitimate and have the settlement of the father.

Ch. 65.

Divorce.

SEC. 13. A divorce does not bar the issue of the marriage from inheriting, or affect their rights.

SEC. 16. When a marriage is annulled on account of the consanguinity or affinity of the parties, the issue is illegitimate; but when on account of

Void marriages.

nonage, insanity or idiocy, the issue is the legitimate issue of the parent capable of contracting marriage.

SEC. 17. When a marriage is annulled on account of a prior marriage, and the parties contracted the second marriage in good faith, believing that a prior husband or wife was dead, that fact shall be stated in the decree of nullity; and the issue of such second marriage, begotten before the commencement of the suit, is the legitimate issue of the parent capable of contracting.

Ch. 72.

SEC. 36. Before such petition is granted, written consent to such adoption must be given by the child, if of the age of fourteen years, and by each of his living parents, if not hopelessly insane or intemperate; or, when a divorce has been decreed to either parent, written consent by the parent entitled to the custody of the child; or such consent by one parent, when, after such notice to the other parent as the judge deems proper and practicable, such other parent is considered by the judge unfit to have the custody of the child. If there are no such parents, or if the parents have abandoned the child and ceased to provide for its support, consent may be given by the legal guardian; if no such guardian, then by the next of kin in the State; if no such kin, then by some person appointed by the judge to act in the proceedings as the next friend of such child; if an illegitimate child, and under the age of fourteen years, such consent may be given by the mother of such child.

Ch. 80.

SEC. 3. An illegitimate child born after the twenty-fourth day of March, in the year of our Lord one thousand eight hundred and sixty-four, is the heir of our Lord one thousand eight hundred and sixty-four, is the heir of its parents who intermarry. And any such child, born at any time, is the heir of his mother. And if the father of an illegitimate child adopts him or her into his family, or in writing acknowledges before some justice of the peace or notary public, that he is the father, such child is also the heir of his or her father. And in each case such child and its issue shall inherit from its parents respectively, and from their lineal and collateral kindred, and these from such child and its issue the same as if legitimate.

Ch. 102.

SEC. 1. When a woman pregnant with a child, which, if born alive, may be a bastard, or who has been delivered of a bastard child, accuses any man of being the father thereof, before any justice of the peace, and requests a prosecution against him, such justice shall take her accusation and examination on oath, respecting the accused, and the time and place when and where the child was begotten, as correctly as they can be described, and such other circumstances as he deems useful in the discovery of the truth.

SEC. 2. He may issue his warrant for the apprehension of the accused, directed to the sheriff of any county in which the accused is supposed to reside, or to either of his deputies, or to a constable of any town in such county accompanied by such accusation and examination.

SEC. 3. When the accused is brought before such or any other justice, he may be required to give bond to the complainant, with sufficient sureties, in such reasonable sum as the justice orders, conditioned for his appearance at the next term of the supreme judicial or superior court for the county in which she resides, and for his abiding the order of the court thereon; and if he does not give it, he shall be committed to jail until he does. The cost of commitment and board of the accused while so in jail shall be paid by the county in which said jail is situated. If he gives the required bond after said commitment, he shall be liberated upon the payment of cost of commitment and board.

SEC. 4. If at such next or any subsequent term, the complainant is not delivered of her child, or is unable to attend court, or shows other good reason, the cause may be continued; and the bond shall remain in force until final judgment, unless the sureties of the accused surrender him in court at any time before final judgment, which they may do, and thereupon they shall be discharged; and he shall be committed until a new bond is given.

SEC. 5. Before proceeding to trial, the complainant must file a declaration, stating that she has been delivered of a bastard child begotten by the accused, and the time and place when and where it was begotten, with as much precision as the case admits; and that being put on the discovery of the truth during the time of her travail, she accused the respondent of being the father of her child, and that she has been constant in such accusation.

SEC. 6. When the complainant has made said accusation; been examined on oath as aforesaid; been put upon the discovery of the truth of such accusation at the time of her travail, and thereupon has accused the same man with being the father of the child of which she is about to be delivered; has continued constant in such accusation, and prosecutes him as the father of such child before such court; he shall be held to answer to such complaint; and she may be a witness in the trial.

SEC. 7. If, on such issue, the jury finds the respondent not guilty, he shall be discharged; but if they find him guilty, or the facts in the declaration filed are admitted by default or on demurrer, he shall be adjudged the father of said child; stand charged with its maintenance, with the assistance of the mother, as the court orders; and shall be ordered to pay the complainant her costs of suit and for the expense of her delivery, and of her nursing, medicine and medical attendance, during the period of her sickness and convalescence, and of the support of such child to the date of rendition of judgment; and shall give a bond, with sufficient sureties approved by the court, or by the clerk of said court, in term time, or in vacation, to the complainant to perform said order, and a bond, with sufficient sureties so approved, to the town liable for the maintenance of such child, and be committed until he gives them. The latter bond shall be deposited with the clerk of the court for the use of such town. If the respondent does not comply with that part of the order relative to payment of expenses and costs of suit, execution may issue therefor as in actions of tort. (As amended by Laws 1917, ch. 84.)

SEC. 8. No woman, whose accusation and examination on oath have been taken by a justice of the peace at her request, shall make a settlement with the father, or give him any discharge to bar or affect such complaint, if objected to in writing by the overseers of the poor of the town interested in her support or the child's.

SEC. 9. A town prosecuting in behalf of the complainant, is liable to the respondent, if he prevails, for his costs of court, to be recovered in an action of the case; or the court may, on his motion, enter judgment against the town for such costs, and issue execution thereon.

SEC. 10. When the father of such bastard child has remained for six months in jail, without being able to comply with the order of the court, he may be liberated by taking the poor debtor's oath, as persons committed on execution; but he shall give fifteen days' notice of his intention to do so, to the mother, if living, and to the clerk of the town where the child has its legal settlement, if in the State. The mother and said town may, after such liberation, recover of him by action of debt any sum of money, which ought to have been paid pursuant to the order of the court. (As amended by Laws 1917, ch. 158.)

SEC. 11. When the complainant dies before trial, her executor or administrator may prosecute her action to final judgment; and in case of judgment against the respondent, the bond for performance of the order of court, required by section 7, shall run to such executor or administrator, who, after payment of the costs of prosecution, shall appropriate to the support of the child the money recovered of the respondent.

Ch. 126.

SEC. 8. If a woman is willingly delivered in secret of the issue of her body, which would be a bastard if born alive, and conceals the death thereof,

Concealment of so that it is not known whether it was born dead, or alive and births and deaths. was murdered, she shall be punished by imprisonment for not more than three years, or by fine not exceeding one hundred dollars; and she may be charged with such offense, and also with the murder of such child, in the same indictment, and convicted and punished for either, according to the verdict.

NOTE.—A place maintained by one who receives illegitimate children under sixteen years of age falls under the designation "boarding house for children" regulated by chapter 64, Revised Statutes, sec. 58. (Laws 1917, ch. 149.)

MARYLAND.¹

Public General Laws, 1904.

Art. VI.

SECTION 11. The said courts [orphans' courts] may also bind out as apprentices * * * illegitimate children * * *.

Apprenticeship.

Art. XII (as amended by Laws 1912, ch. 163).

SEC. 1. *Be it enacted by the General Assembly of Maryland*, That Article XII of the Code of Public General Laws of Maryland of the year 1904 is hereby repealed except in so far as the same is applicable to cases heretofore commenced or hereafter commenced where the bastard child was born or begotten prior to the passage of this act, and the said article be and the same is hereby reenacted, with amendments, so as to read as follows:

Illegitimacy proceedings. SEC. 1. *And be it enacted*, That any justice of the peace in any of the counties of the State or any justice of the peace in Baltimore City, having criminal jurisdiction, shall, upon written information given him under oath, of any woman being pregnant with or having been delivered of a bastard child, by his warrant, cause such woman to be brought before him, and shall cause said woman upon failure to disclose the father of said infant as prescribed by section 2 of this act, to give bond to the State of Maryland, with good and sufficient securities in the penalty of an amount not exceeding \$500, conditioned that she will indemnify the county or city, as the case may be, for any charge that may accrue for maintenance and support of said child and upon neglect or refusal to give such bond, the justice of the peace may commit her to jail, or any other institution, for a term not exceeding one year, or until such bond be given: *Provided, however*, That the justice of the peace may suspend sentence and parole the said woman for the term of two years.

SEC. 2. *And be it enacted*, That whenever any woman who has been delivered of or who is pregnant with a bastard child, shall in writing under oath, accuse any person before a justice of the peace, having criminal jurisdiction, of being the father of the said bastard child, such justice of the peace shall by his warrant cause such person to be brought before him, and if the said accused person is not to be found in the County or City of Baltimore, as the case may be, then said justice of the peace shall transmit a warrant to the sheriff of the County or City of Baltimore, as the case may be, in which said accused person is to be found, who shall cause the arrest of the said accused person and deliver him into custody of an officer of the County or City of Baltimore, as the case may be, from which the said warrant issued, to be taken before said justice of the peace.

SEC. 3. *And be it enacted*, That upon the appearance of said accused person, the justice of the peace shall pass an order requiring said accused person to give bond to the State of Maryland in a penalty not exceeding \$500, with good and sufficient securities, conditioned that he will appear at the next term of the circuit court of the county from which said warrant issued, or the criminal court of the City of Baltimore, as the case may be, or to any later term of such court, after the birth of said child, in default of such security, said accused person shall be committed to the custody of the sheriff until such bond is given or until final judgment is rendered by said court, in case the bond provided for by this section shall be forfeited, the court may from time to time direct that the proceeds thereof be applied for the maintenance and support of said bastard child.

SEC. 4. *And be it enacted*, That at the hearing before said justice of the peace, it shall be his duty to take down and reduce to writing the testimony of the woman making complaint, together with the cross-examination of said woman by the accused, or his attorney, which testimony shall be signed and sworn to by said woman, and he shall transmit the same with the original papers in the case to the circuit court of the county or to the criminal court of the City of Baltimore, as the case may be, and such testimony shall be admitted in evidence at the trial of the accused person under section 5 of this act, if said accusing witness should die prior to the time of such trial.

SEC. 5. *And be it enacted*, That immediately upon the passage of said order, said justice of the peace shall transmit the original papers and a transcript of the proceedings had before him to said circuit court or the criminal court of the City of Baltimore, as the case may be, and thereupon, but not before said woman shall have been delivered, the same proceedings shall be had as in other criminal cases, and if the accused person

¹ These laws are also contained in Annotated Code 1911 and 1914, under article and section numbers corresponding to those of the codification of 1904.

shall be found guilty by the verdict of a jury, or by the court, if the case be tried before the court, the court shall immediately order such person to give bond to the State of Maryland, in a penalty not exceeding \$500, with good and sufficient securities conditioned to pay for the maintenance and support of said child, to the mother, or to the person having said child in custody, or to the County or to the City of Baltimore, as the case may be, if said child be a public charge, until said child reaches the age of twelve years, or during the life of such child if said child die before reaching the age of twelve years, such sum, not exceeding \$15 per month, as the court shall by order direct, due regard being had to the circumstances of such accused person, and further to pay the whole or such part of the expenses incurred by the said mother during her confinement as the court may direct and to pay the reasonable funeral expenses of said child if he or she shall die under the age of twelve years in default of such bond he shall be committed to jail or the house of correction until said bond be given, but not exceeding two years.

SEC. 6. *And be it enacted*, That the court upon the trial of said person accused of being the father of the said bastard child, may in its discretion pass an order directing the mother thereof to give a bond in a penalty not exceeding \$500 with good and sufficient securities, to the State of Maryland, conditioned that she will indemnify the county or city, as the case may be, from any charge that may accrue for the maintenance and support of the said child until said child reaches the age of twelve years, and upon neglect or refusal to give such bond, the court may commit her to jail or other institution for a term not exceeding one year, or until such bond is given, provided, however, that the court may suspend sentence and parole the said woman for the term of two years.

SEC. 7. *And be it enacted*, That all bonds or recognizances required under this act to be taken or given before a justice of the peace shall be immediately returned by said justice of the peace (a copy thereof being retained by the said justice of the peace), to the clerk of the circuit court of the county or the criminal court of Baltimore City, as the case may be; and the clerk of the court shall record said bonds or recognizances together with any other bonds or recognizances taken or given by the order of the court therein among the proceedings of the court.

SEC. 8. *And be it enacted*, That the court may from time to time, upon petition of any interested party, change or modify its order directing the amount that the father shall pay for the maintenance and support of said child, ten days' notice in writing mailed to or left at the last known address of the opposite party shall be sufficient service.

SEC. 9. *And be it enacted*, That the circuit court of the county or the criminal court of Baltimore City, as the case may be, shall take such action and shall have authority to direct the issue of such writs as may be appropriate to enforce the bonds provided for by this act.

SEC. 10. *And be it enacted*, That upon the death of the father after giving the bond required in section 5, the court may, upon the suggestion of the death of the said father, summon the personal representatives and heirs of the said father and the securities upon the bond given as required by section 5, if such parties be within the State, and the mother or other person having charge of the said child, and upon proof being offered to the court of the amount of the estate of the said decedent father, and upon any other points upon which the court desires to hear testimony, the court may, in its discretion, direct and order such sum or sums to be paid to the mother or other person in charge of such child, for the maintenance and support thereof out of the father's estate as may appear to the court to be just and proper. In no case, however, shall the mother or other person in charge of said child receive more than \$500 or more than one-half the amount that each of his legitimate children, if any, would receive, or more than one-half the amount the descendants, if any, of a deceased legitimate child would receive as a class, if the father had died intestate. All money paid or ordered to be paid under this section shall be charged as a debt or debts against the estate of the said deceased father, upon payment of the sum or sums ordered to be paid by the court under this section, the bond given under section 5 shall be cancelled and the sureties thereon discharged.

SEC. 11. *And be it enacted*, That prosecutions under this act may be commenced within two years from the delivery of the mother of the bastard child, except that where the person accused has made payments for the maintenance and support of the said child, it shall be sufficient if the prosecution be started within two years from the last payment by the accused for the maintenance and support of the said bastard child.

SEC. 12. *And be it enacted*, That whenever any principal, surety, or other person in interest, upon competent testimony, makes it appear to the satisfaction of any court in which a bond in any bastardy case is entered upon, that by reason of the death of the child or by reason of the payment of all dues arising under said bond, or

for any other reason, the bond should be discharged, the court may make such order of discharge, annulment or cancellation of the bond, or such other order as may be deemed appropriate by the court to discharge the obligors on the bond.

SEC. 13. *And be it enacted*, That Article 12 of the Code of Public General Laws of Maryland of the year 1904 shall continue in full force and effect so far as the same is applicable to cases heretofore commenced or hereafter commenced where the bastard child was born or begotten prior to the passage of this act.

SEC. 14. *And be it enacted*, That the unconstitutionality of any part of or any section of this act shall not affect the validity of any other part or section thereof.

Art. XLVI.

SEC. 29. If any man shall have a child or children by any woman whom he shall afterwards marry, such child or children, if acknowledged by the man, shall, in virtue of such marriage and acknowledgment, be hereby legitimated and capable in law to inherit and transmit inheritance as if born in wedlock.

SEC. 30. The illegitimate child or children of any female, and the issue of any such illegitimate child or children shall be capable in law to take and inherit both real and personal estate from their mother, or from each other, or from the descendants of each other, as the case may be; and where such illegitimate child or children shall die, leaving no descendants, or brothers or sisters, or the descendants of such brothers and sisters, then and in that case, the mother of such illegitimate child or children, if living, shall inherit both real and personal estate from such illegitimate child or children; and if the mother be dead, then and in that case the heirs at law of the mother shall inherit the real and personal estate of such illegitimate child or children in like manner as if such illegitimate child or children had been born in lawful wedlock.

Art. XCIII.

SEC. 134. The illegitimate child or children of any female, and the issue of any such illegitimate child or children shall be capable to take real or personal estate from their mother, or from each other, or from the descendants of each other, in like manner as if born in lawful wedlock.

MASSACHUSETTS.

Revised Laws, 1902.

Ch. 83.

SECTION 13. The mother of an illegitimate infant under two years of age, who is a resident of this Commonwealth and who has previously borne a good character, may, in writing signed by her, and with the consent of said State board of charity, give up such infant to said board for adoption; and said State board, if it deems such action for the public interest, may, in its discretion and on such conditions as it may impose, receive such infant and provide therefor. Such surrender by the mother shall operate as a consent by her to any adoption subsequently approved by said board.

SEC. 17. Whoever receives an infant under the age of three years for board or for the purpose of procuring adoption shall use due diligence to ascertain whether it is illegitimate, and if he knows or has reason to believe that it is, he shall forthwith notify the State board of charity of such reception. The members, officers or agents of said board may enter and inspect any building where they have reason to believe such illegitimate infant is boarded and remove it, if they believe that, by reason of neglect, abuse or other cause, its removal is necessary to preserve its life. Such infant shall be in the custody of said board which shall make provision therefor according to law.

SEC. 18. Whoever receives an infant for board or for the purpose of procuring adoption, as described in the preceding section, and its parents shall, if required by the State board of charity or its officers, give true answers, so far as their knowledge extends, as to the parentage, residence and place of settlement of said infant; and the parent or parents of such child shall, if required by the State board of charity or the overseers of the poor of the city or town in which the person receiving said infant resides, give satisfactory security to said board or overseers for its maintenance.

SEC. 19. Whoever violates the provisions of the two preceding sections shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than one year.

Ch. 84.

Illegitimacy proceedings. SEC. 4. The board [State board of charity] shall ascertain whether any paupers in State institutions under its supervision or that of the State board of insanity have settlements in this Commonwealth, and shall cause the laws relative to the support by cities and towns of sane State paupers to be enforced, and shall prosecute all cases of bastardy if the mother has no settlement in this Commonwealth. (As amended by Laws 1909, ch. 208.)

Ch. 133.

Inheritance. SEC. 3. An illegitimate child shall be heir of his mother and of any maternal ancestor, and the lawful issue of an illegitimate person shall represent such person and take by descent any estate which such person would have taken if living.

SEC. 4. If an illegitimate child dies intestate and without issue who may lawfully inherit his estate, such estate shall descend to his mother or, if she is not living, to the persons who would have been entitled thereto by inheritance through his mother if he had been a legitimate child.

Legitimation. SEC. 5. An illegitimate child whose parents have intermarried, and whose father has acknowledged him as his child, shall be considered legitimate.

Ch. 151.

Marriages. SEC. 6. If a person, during the lifetime of a husband or wife with whom the marriage is in force, enters into a subsequent marriage contract with due legal ceremony and the parties thereto live together thereafter as husband and wife, and such subsequent marriage contract was entered into by one of the parties in good faith, in the full belief that the former husband or wife was dead, that the former marriage had been annulled by a divorce, or without knowledge of such former marriage, they shall, after the impediment to their marriage has been removed by the death or divorce of the other party to the former marriage, if they continue to live together as husband and wife in good faith on the part of one of them, be held to have been legally married from and after the removal of such impediment, and the issue of such subsequent marriage shall be considered as the legitimate issue of both parents.

Void marriages. SEC. 12. The issue of a marriage which is declared void by reason of consanguinity or affinity between the parties shall be illegitimate.

SEC. 13. The issue of a marriage which is declared void by reason of nonage, insanity or idiocy of either party shall be the legitimate issue of the parent who was capable of contracting the marriage.

SEC. 15. Upon or after a decree of nullity, the court shall have similar power to make orders relative to the care, custody and maintenance of the minor children of the parties as upon a decree of divorce.

Ch. 152.

Divorce. SEC. 22. A divorce for adultery committed by the wife shall not affect the legitimacy of the issue of the marriage, but such legitimacy, if questioned, shall be tried and determined according to the course of the common law.

Ch. 212.

Concealment of births and deaths. SEC. 17. A woman who conceals the death of issue of her body, which if born alive would be a bastard, so that it can not be ascertained whether it was born alive or, if born alive, whether it was murdered, shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than one year.

SEC. 18. A woman indicted for the murder of her infant bastard child may also be charged in the same indictment with the crime described in the preceding section; and if she is acquitted of murder, she may be convicted of the concealment.

Laws of 1902, ch. 310 (Supplement to Revised Laws, 1902-1908, p. 1296).

Void marriages. SEC. 1. If a marriage is declared void by reason of a prior marriage of either party and the court finds that the second marriage was contracted with the full belief of the party who was capable of contracting the second marriage that the former husband or wife was dead, or that the former marriage was void, or that a divorce had been decreed which left the party to the former marriage free to marry again, such finding shall be stated in the decree, and the issue of the second marriage, if born or begotten before the second marriage was declared void, shall be the legitimate issue of the parent capable of contracting the marriage.

SEC. 3. This act shall take effect upon its passage, and it shall apply to proceedings pending upon or instituted after its passage, although such second marriage may have been contracted before its passage.

Laws of 1913, ch. 563, p. 480.

An act relative to illegitimate children and their maintenance.

SEC. 1. Whoever, not being the husband of a woman, gets her with child shall be guilty of a misdemeanor. Proceedings under any section of this act may be begun in the municipal, district or police court having jurisdiction in the place where the defendant lives, and if there be no such court, then in any municipal, district or police court in the county; or in the municipal, district or police court having jurisdiction in the place where the mother of the illegitimate child lives; and if there be no such court, then in any municipal, district or police court in the county. If no court has jurisdiction as aforesaid, proceedings may be begun before a trial justice in the county where such defendant or such mother lives.

SEC. 2. If the defendant pleads guilty or nolo contendere, or is found guilty, the court or justice shall enter a judgment adjudging him the father of such child; but such adjudication shall not be made after a plea of not guilty, against the objection of the defendant, until the child is born or the court or justice finds that the mother is at least six months advanced in pregnancy. No provision of law limiting adjournments or continuances shall apply to proceedings under any section of this act. At the sitting when such adjudication is made, if made after a plea of not guilty, the defendant may appeal therefrom to the superior court as in other criminal cases. Such adjudication, whether any sentence be imposed or not, shall be final and conclusive unless an appeal from such adjudication to the superior court be taken as hereinbefore provided, or, if such adjudication, be made by the superior court, unless set aside upon an appeal taken not later than three days thereafter under the provisions of section 32 of chapter 219 of the Revised Laws, or upon exceptions. Such adjudication may be entered by the superior court notwithstanding exceptions have been alleged or an appeal has been taken. The court or justice making such adjudication may within one year thereafter grant a new trial for any cause.

SEC. 3. If the court or justice having jurisdiction of any case under any section of this act becomes satisfied that no living child will be born of which the defendant at the time of making the complaint was the father, or that the defendant and the mother have married each other and the child has become or will be the legitimate child of the defendant, or that adequate provision has been made for the maintenance of the child, the complaint may be dismissed and any adjudication vacated; and if the court or justice certifies that such provision has been made, no further complaint shall be maintained under any section of this act.

SEC. 4. If the child has not been born at the time of such adjudication, the court or justice having jurisdiction of the case shall continue the case from time to time until the child is born. At any time after such adjudication, after inquiring into the respective means of the defendant and the mother, the court or justice having jurisdiction of the case may make an order for the payment to the mother or to a probation officer of a sum of money to be determined by the court or justice for the expenses of the confinement of the mother, and for failure to comply with such order may order that the defendant be committed to jail, as for a contempt of court, for a term not exceeding two months, unless he shall sooner comply with the order of the court.

SEC. 5. After such adjudication the court or justice having jurisdiction of the case may make such order as may be considered expedient relative to the care and custody of the child, and afterward from time to time may revise and alter the said order, as justice and the welfare of the child require, and the order shall be binding on all persons.

SEC. 6. After such adjudication, and after the child has been born, the defendant shall be liable to contribute reasonably to the support of the child during minority, and shall be subject upon the original complaint under section one of this act, to all the penalties and all the orders for the support and maintenance of the child provided in the case of a parent who is found guilty of unreasonably neglecting to provide for the support and maintenance of a minor child by chapter 456 of the acts of the year 1911 and acts in amendment thereof and in addition thereto; and the practice thereby established shall, so far as it is applicable, apply to proceedings under this section and the preceding sections of this act.

SEC. 7. Any father of an illegitimate child, whether such child shall have been begotten within or without this commonwealth and whether such child shall have been begotten before or after the taking effect of this act, who neglects or refuses to

contribute reasonably to the support and maintenance of such child shall be guilty of a misdemeanor, and, upon conviction thereof, shall be liable to all the penalties and all the orders for the support of the child provided in the case of a parent who is found guilty of unreasonably neglecting to provide for the support and maintenance of a minor child by chapter 456 of the acts of the year 1911¹ and acts in amend-

¹ An act to make uniform the law relating to desertion and nonsupport of wife by husband or of children by either father or mother.

SECTION 1. Any husband who without just cause deserts his wife or minor child or children, whether by going into another town or city in this commonwealth or into another State, and leaving them or any or either of them without making reasonable provision for their support, and any husband who unreasonably neglects or refuses to provide for the support and maintenance of his wife or minor child or children, or abandons or leaves them or any or either of them in danger of becoming a burden upon the public, and any parent, whether father or mother, who deserts or willfully neglects or refuses to provide for the support and maintenance of his or her child or children under the age of sixteen, or whose minor child by reason of the neglect, cruelty, drunkenness, habits of crime or other vice of such parent is growing up without education, or without salutary control, or without proper physical care or in circumstances exposing such child to lead an idle and dissolute life, shall be guilty of a crime, and on conviction thereof shall be punished by a fine not exceeding two hundred dollars, or by imprisonment for not more than one year, or by both such fine and imprisonment.

SEC. 2. All fines imposed under the provisions of the foregoing section may, in the discretion of the court be ordered to be paid in whole or in part to the probation officer under the provisions of section one of chapter two hundred and twenty of the Revised Laws, as amended by section one of chapter three hundred and thirty-eight of the acts of the year nineteen hundred and five, to be paid by such probation officer to the wife or to the city, town, corporation, society or person actually supporting the wife or minor child or children at the time when the sentence was imposed, or to the treasurer of the Commonwealth for the use of the state board of charity if the minor child or children have been committed to said board.

SEC. 3. Proceedings under this act may be begun upon complaint made under oath or affirmation by the wife, or by the child or children, or by any other person against any person guilty of any of the above-named offences, in the municipal, district or police court, or before the trial justice of the district in which the husband and wife, or either of them, are living or in which they last lived together.

SEC. 4. At any time before the trial, upon petition of the complainant and upon notice to the defendant, the court, or a judge thereof in vacation, may enter such temporary order as may seem just, providing for the support of the deserted wife or children, or both, pendente lite, and may punish any violation of such order as for contempt.

SEC. 5. Before the trial, with the consent of the defendant, or at the trial, on entry of a plea of guilty, or after conviction, if the defendant is placed on probation or if his sentence is suspended and he is placed on probation under the provisions of section one of chapter two hundred and twenty of the Revised Laws, and acts in amendment thereof, the court in its discretion, having regard to the circumstances and to the financial ability or earning capacity of the defendant, shall have power to make an order, which shall be subject to change by the court from time to time as circumstances may require, directing the defendant to pay a certain sum periodically, for a term not exceeding two years, to the probation officer, who shall pay over the same to the wife or to the guardian or custodian of the said minor child or children, or to the city, town, corporation or society supporting the wife or minor child or children, or to the treasurer of the Commonwealth for the use of the State board of charity when the complaint is for neglect to provide for the support of the minor child or minor children who have been committed to the custody of said board; and the court shall also have power to release the defendant from custody on probation for the period so fixed, requiring in its discretion the defendant to enter into a recognizance, with or without surety, in such sum as the court or a judge thereof in vacation may order and approve. The condition of the recognizance shall be that if the defendant shall make his or her personal appearance in court, whenever ordered to do so, and shall comply with the terms of the order of support, or of any subsequent modification thereof, then the recognizance shall be void, but otherwise it shall be of full force and effect. Suit may be brought upon said recognizance by any person authorized by the court, and the proceeds of the suit shall be applied to the support of the wife or of the minor child or children as the court shall direct. (As amended by Laws 1913, ch. 257, sec. 453.)

SEC. 6. If the court be satisfied by information and due proof under oath that at any time during said period of probation the defendant has violated the terms of the order, it may forthwith proceed with the trial of the defendant under the original charge, or sentence him or her under the original conviction, or enforce the suspended sentence, as the case may be. In case the defendant is admitted to bail pending the trial of the cause and the bail shall be forfeited, the money or sum recovered, and in case of the forfeiture of the recognizance and enforcement thereof by execution the sum recovered may, in the discretion of the court, be paid in whole or in part to the probation officer, who shall pay over the same to the wife, or to the guardian or custodian of said minor child or children, or to the city, town, corporation or society supporting the wife or minor child, or to the treasurer of the Commonwealth for the use of the State board of charity when the complaint is for neglect to provide for the support of a minor child or of minor children who have been committed to the custody of said board. (As amended by Laws 1914, ch. 520, and Laws 1915, ch. 257, sec. 454.)

SEC. 7. No other or greater evidence shall be required to prove the marriage of the husband and wife, or that the defendant is the father or mother of the child or children, than is or shall be required to prove the same facts in a civil action. In no prosecution under this act shall any existing statute or rule of law prohibiting the disclosure of confidential communications between husband and wife apply, and both husband and wife shall be competent witnesses to testify against each other to any and all relevant matters, including the fact of their marriage and the parentage of the child or children: *Provided*, That neither shall be compelled to give evidence incriminating himself or herself. Proof of the desertion of the wife, child or children, and of the neglect or refusal to make reasonable provision for their support and maintenance, shall be prima facie evidence that such desertion, neglect or refusal is willful and without just cause.

SEC. 8. It shall be the duty of the superintendent, master or keeper, as the case may be, of any reformatory or penal institution in which any person is confined by virtue of a sentence imposed under the provisions of this act, providing that the court imposing such sentence finds the wife, child or children as the case may be, of such person to be in destitute or needy circumstances, to pay over to probation officer, at the end of each week a sum equal to fifty cents for each day's hard labor performed by the person so confined. In making the payment the superintendent, master or keeper, as the case may be, in charge of the reformatory or penal institution, shall state the name of the person for whose labor the payment is made, and the probation officer shall pay over such sum promptly to the wife, or to the guardian or custodian of the minor child or children of the person so confined, or to the city, town, corporation or society supporting the wife or minor child or children at the time when the sentence was imposed, or to the treasurer of the Commonwealth for the use of the State board of charity when the complaint was for neglect to provide for the support of the minor child or of minor children who have been committed to the custody of said board. (As amended by Laws 1912, ch. 310.)

ment thereof and in addition thereto; and the practice thereby established shall, so far as it is applicable, apply to proceedings under this section. If there has been any final adjudication under this act, such judgment, order or adjudication shall be conclusive on all persons in proceedings under this section; otherwise, the question of paternity shall be determined in proceedings under this section: *Provided, however,* That no proceedings shall be maintained under the provisions of this act in any case where proceedings have been begun under chapter 82 of the Revised Laws and acts in amendment thereof or in addition thereto.

SEC. 8. Appealed proceedings under this act shall be placed on the trial list for each sitting of the superior court for the trial of criminal cases until tried, and shall have precedence next after the cases mentioned in section 32 of chapter 157 of the Revised Laws.

SEC. 9. Chapter 82 of the Revised Laws and all acts in amendment thereof or in addition thereto are hereby repealed; but this repeal shall not affect any proceeding begun before the first day of July, in the year 1913.

SEC. 10. This act shall take effect on the first day of July in the year 1913.

Settlement (residence).

Laws 1911, ch. 669, sec. 1. Legal settlement may be acquired in any city or town in the following manner and not otherwise:

Fourth. Illegitimate children shall follow and have the settlement of their mother if she has any within the Commonwealth.

Birth registration.

Laws 1912, ch. 280, sec. 2. * * *. If the child is illegitimate, the name and other facts relating to the father shall not be stated except at the request in writing of both the father and mother filed with the return * * *.

R. L., 1902, ch. 29, sec. 25. In any statement of births and deaths printed by a city or town the name of an illegitimate child or of its parents * * * shall not be printed, but the word "illegitimate" * * * shall be used in place thereof. A city or town which violates the provisions of this section shall forfeit to the mother of such child not more than one hundred dollars.

NOTE ON ADOPTION LAW.—The law requires the consent of the mother of the illegitimate child (ch. 154, sec. 2); also: "Illegitimacy shall in no case be expressly averred upon the record." (Laws 1904, ch. 302.)

MICHIGAN.

Compiled Laws, 1915.

SECTION 7753. *Complaint and examination.*—When any woman who has been delivered of a bastard child, or is pregnant with a child, which, if **Illegitimacy pro-** born alive, may be a bastard, shall make a complaint to any **ceedings.** justice of the peace, and shall desire to institute a prosecution against the person whom she accuses of being the father of the child, the justice shall take her accusation and examination in writing, under oath, respecting the person accused, the time when and place where the complainant was begotten with child, and such other circumstances as the said justice shall deem necessary, for the discovery of the truth of such accusation. (See sec. 15700, permitting examining magistrate to exclude persons not required by law to be in attendance.)

SEC. 7754. *Warrant; proceedings thereon.*—The said justice may issue his warrant against the party accused, which may be executed in any part of this State, and after hearing him in his defense, may require him to enter into recognizance with one or more sureties to the satisfaction of the justice, in such sum as he may deem necessary, not less than one hundred nor more than five hundred dollars, upon condition to appear and answer to the said complainant at the next term of the circuit court for the county, and to abide the order of the court thereon, and may order him to be committed until he shall enter into such recognizance; and on the trial of the issue before the court, the examination taken as aforesaid shall be given in evidence.

SEC. 7755. *Proceedings in circuit court.*—If, at the next term of the said court, the complainant shall not have been delivered, or shall not be able personally to attend, or if there shall be any other sufficient reason therefor, the court may order a continuance of the cause, from time to time, as they shall judge necessary, and such recognizance shall remain in force until final judgment: *Provided,* That if the sureties in such recognizance shall, at any term of said court, object to being any longer held liable, or if the court shall, for any cause, deem it proper, such court may order the

defendant to enter into a new recognizance, with such sureties, and for such amount as they shall direct; and he shall stand committed until such new recognizance shall be entered into.

SEC. 7756. *Trial and judgment.*—Upon the trial of the cause, the woman making the complaint shall be admitted as a witness, unless she shall have been convicted of a crime which would by law render her incompetent as a witness in any other cause; and the issue to the jury shall be, whether the defendant is guilty or not guilty; and if the jury shall find him guilty, or if he shall admit the truth of the accusation, he shall be adjudged to be the father of such child, and shall stand chargeable with the maintenance thereof, with the assistance of the mother, in such manner as the court shall order.

SEC. 7757. *Bond to secure performance of order, etc.*—Such person so adjudged to be the father of such child, shall give bond to the superintendents of the poor of the county, with sufficient sureties to the satisfaction of the court, to perform such order and also to indemnify the county, which might be chargeable with the maintenance of such child; and he may be committed to prison until he shall give such bond; but if on such trial he shall be found not guilty, the court shall order that he be discharged; and in either case the judgment of the court shall be final.

SEC. 7758. *Relief of persons imprisoned—Notice of intention to take oath—Not released from civil liability.*—Any man who shall have been imprisoned six months for having failed to comply with the order of the circuit or superior court, as provided in this chapter, shall have the benefit of the laws for the relief of poor prisoners committed on execution for debt: *Provided*, He shall procure the like notification of his intention to take the oath prescribed to poor debtors, to be served on the complainant if still living in this State, and a like notice upon one of the said superintendents of the poor, and upon the prosecuting attorney of the county where such conviction shall have been had; such notification to be served at least thirty days before the time appointed for taking said oath: *Provided*, That the taking of such oath shall in nowise release the person taking the same from any civil liability to said complainant under an order of such circuit or superior court: *And provided, further*, That in the trial of any cause for the recovery of any sum of money ordered by the circuit court to be paid by any defendant for the support of any illegitimate child, a certified copy of such order shall be prima facie evidence of the liability of such defendant.

SEC. 7759. *Still liable to action.*—The mother of such child, and the said county superintendents respectively, may at all times after the liberation of such prisoner on taking said oath, recover by action of debt or on the case, any sum of money which ought to have been paid to them respectively by him in pursuance of such order of the court.

SEC. 7760. *When superintendents to make application for examination.*—If any woman shall be delivered of a bastard child, which shall be chargeable, or likely to become chargeable to any county; or shall be pregnant of a child likely to be born a bastard, and to become chargeable to any county, the superintendents of the poor of any county, or any of them, where such woman shall be, shall, upon application for aid in supporting such child by the mother thereof, apply to some justice of the peace of the same county to make inquiry into the facts and circumstances of the case.

SEC. 7761. *Woman to be examined, and reputed father apprehended.*—Such justice shall examine such woman on oath respecting the father of such child, the time when and the place where she was begotten with child, and such other circumstances as the justice may deem necessary for the discovery of the truth; and shall thereupon issue his warrant to apprehend the reputed father; and the same proceedings shall be thereupon had, as if complaint had been made by such woman, as prescribed in the foregoing provisions of this chapter, and with the like effect.

SEC. 7762. *Warrant may be executed in any county.*—Any warrant issued for the apprehension of such reputed father, may be executed in any county in this State, in which the person against whom the same issued may be found.

SEC. 7763. *Superintendents may compromise with father.*—The superintendents of the poor of any county in this State shall have power to make such compromise and arrangement with the putative father of any bastard child in such county, relative to the support of such child, as they shall deem equitable and just, and thereupon may discharge such putative father from all liability for the support of such bastard.

SEC. 11796. *Illegitimate children to inherit from mother.*—Every illegitimate child shall be considered as an heir of his mother, and shall inherit her estate, in like manner as if born in lawful wedlock; but shall not be allowed to claim, as representing his mother, any part of the estate of any of her kindred, either lineal or collateral.

Inheritance.

SEC. 11797. *Estate of illegitimate child: to whom to descend.*—If any illegitimate child shall die intestate, without lawful issue, his estate shall descend to his mother; if she be dead, it shall descend to the relatives of the intestate on the part of the mother, as if the intestate had been legitimate.

SEC. 11798. *Legitimation of bastard.*—When, after the birth of an illegitimate child, his parents shall intermarry, or without such marriage, if the father shall, by writing under his hand acknowledge such child as his child, such child shall be considered legitimate for all intents and purposes: *Provided*, That such acknowledgment shall be executed and acknowledged in the same manner as may be by law provided for the execution and acknowledgment of deeds of real estate, and be recorded in the office of the judge of probate of the county in which such father is at the time a resident.

SEC. 11392. *Marriages void without divorce—Legitimacy of issue.*—All marriages which are prohibited by law on account of consanguinity or affinity between the parties, or on account of either of them having a former wife or husband then living, and all marriages solemnized when either of the parties was insane or an idiot, shall, if solemnized within this State, be absolutely void, without any decree of divorce or other legal process: *Provided*, That the issue of such marriage, except that contracted while either of the parties thereto had a former husband or wife living, shall be deemed legitimate.

SEC. 11418. *Legitimacy of children in case of adultery.*—A divorce for the cause of adultery committed by the wife, shall not affect the legitimacy of the issue of the marriage, but the legitimacy of such children, if questioned, may be determined by the court upon the proofs in the cause; and in every case, the legitimacy of all children begotten before the commencement of the suit shall be presumed until the contrary be shown.

SEC. 11419. *Legitimacy in cases of nonage, etc.*—Upon the dissolution of a marriage on account of the nonage, insanity or idiocy of either party, the issue of the marriage shall be deemed to be in all respects the legitimate issue of the parent who, at the time of the marriage, was capable of contracting.

SEC. 11420. *Legitimacy in case of former husband or wife living.*—When a marriage is dissolved on account of a prior marriage of either party, and it shall appear that the second marriage was contracted in good faith, and with the full belief of the parties that the former wife or husband was dead, that fact shall be stated in the decree of divorce or nullity; and the issue of such second marriage, born or begotten before the commencement of the suit, shall be deemed to be the legitimate issue of the parent who, at the time of the marriage, was capable of contracting.

SEC. 7794. *Certain wife desertion felony—Limitations.*—Every man or boy who shall marry any woman or girl for the purpose of escaping prosecution for rape, bastardy or seduction, and shall afterwards desert her without good cause, shall be deemed guilty of a felony, and shall, upon conviction, be fined not more than \$1,000 or be imprisoned in the State prison for not more than three years: *Provided*, That no prosecution shall be brought under this act after five years from the date of the marriage: *Provided, further*, That in all prosecutions under this act, the wife may testify against a husband without his consent.

SEC. 11517. *Mother of illegitimate child may consent.*—The mother of an illegitimate minor child shall have power to give the consent authorized in this chapter [secs. 11491, 11518], to the binding of such child, during the lifetime of the putative father, as well as after his death.

SEC. 15469. *Concealment by mother of death of bastard child.*—If any woman shall conceal the death of any issue of her body, which, if born alive, would be a bastard, so that it may not be known whether such issue was born alive or not, or whether it was not murdered, she shall be punished by fine not exceeding \$100, or imprisonment in the county jail not more than one year.

SEC. 15470. *How charged in such case in indictment.*—Any woman who shall be indicted for the murder of her infant bastard child, may also be charged in the same indictment with the offense prescribed in the preceding section; and if on the trial, the jury shall acquit her of the crime of murder, and find her guilty of the other offense, judgment and sentence may be awarded against her for the same.

NOTE ON ADOPTION.—If child illegitimate, consent of mother required. (Sec. 14139.)

NOTE ON BIRTH REGISTRATION.—The certificate of birth states whether the child is legitimate or illegitimate. (Sec. 5614.)

MINNESOTA.

General Statutes, 1913.

Ch. 17. Illegitimate children (as amended by ch. 210 of Laws of 1917).

SECTION 3214. *Complaint—Warrant.*—On complaint being made to a justice of the peace or municipal court by any woman who is delivered of an illegitimate child, or pregnant with a child which, if born alive, might be illegitimate, accusing any person of being the father of such child, the justice or clerk of the court shall take the complaint in writing, under her oath, and thereupon shall issue a warrant, directed to the sheriff or any constable of the county commanding him forthwith to bring such accused person before such justice or court to answer such complaint; which warrant may be executed anywhere within the State.

SEC. 3215. *Action; how entered—Proceedings.*—The justice shall enter an action in his docket, or the clerk of court in his register of actions, in which the State shall be plaintiff and the accused defendant, and shall make such other entries as are required in criminal actions. On the return of the warrant with the accused, the justice or judge shall examine under oath the complainant, and such other witnesses as may be produced by the parties, respecting the complaint, and shall reduce such examination to writing. He may at his discretion, and at the request of either party shall, exclude the general public from attendance at such examination.

SEC. 3216. *Recognizance.*—If there is probable cause to believe the defendant guilty as charged in the complaint, the justice or judge shall require him to enter into a recognizance, with approved sureties, in a sum not less than one hundred dollars nor more than five hundred dollars, to appear before the district court of the proper county at the next term thereof, or if such court is then sitting in the county, at a date fixed by the justice or judge, and answer said complaint and abide the order of such court thereon. If he fails to give such recognizance, the justice or judge shall commit him to the county jail, there to be held to answer such complaint at the next term of such court, or at the date so fixed. Thereupon the justice or judge shall certify the examination, and return the same and all process and papers in the case to the clerk of such court.

SEC. 3217. *Proceedings in district court.*—At the next term of said court, or at the date fixed by the justice or judge, if the complainant has not been delivered or is not able to attend, or for any other sufficient reason, the court may continue the cause, and such continuance shall renew the recognizance, which shall remain in force until final judgment. If the sureties shall at any term of court surrender the defendant and ask to be discharged, or if the court shall at any time deem it proper, it may order a new recognizance to be taken, and commit the defendant until it is given.

SEC. 3218. *Trial—Judgment and proceedings to enforce the same.*—Upon the trial the examination taken before the justice or judge of the municipal court shall in all cases be read to the jury when demanded by the defendant. If he is found guilty, or admits the truth of the accusation, he shall be adjudged to be the father of such child and thenceforth shall be subject to all the obligations for the care, maintenance and education of such child, and to all the penalties for failure to perform the same, which are or shall be imposed by law upon the father of a legitimate child of like age and capacity. Judgment shall also be entered against him for all expenses incurred by the county for the lying-in and support of and attendance upon the mother during her sickness, and for the care and support of such child prior to said judgment of paternity, the amount of which expenses, if any, shall also be found by the jury if they return a verdict of guilty; together with the costs of prosecution. If the defendant fails to pay the amount of such money judgment forthwith, or during such stay of execution as may be granted by the court, he shall be committed to the county jail, there to remain until he pays the same or is discharged according to law: *Provided, however,* That no stay shall be granted unless the defendant shall give a bond to the county, in such sum and with such sureties as shall be approved by the court, for the payment of such money judgment on or before the expiration of such stay.

SEC. 3219. *Action by mother of child against father.*—In the event of judgment of paternity as provided in section 3218 the mother shall be entitled to recover of the father in a civil action all expense necessarily incurred by her in connection with her confinement, including her suitable maintenance for not more than eight weeks next prior thereto and not more than eight weeks thereafter; and for the burial of the child if the same shall have been stillborn or shall have died after birth.

SEC. 3220. *Petition for discharge—Notice.*—Any person who has been imprisoned ninety days for failure to pay any such money judgment may apply to said court, by petition setting forth his inability to pay the same, and praying to be discharged from

imprisonment, and shall attach to such petition a verified statement of all his property, money and effects whether exempt from execution or otherwise. Thereupon the court shall appoint a time and place for hearing said application, of which the petitioner shall give at least ten days' notice to the county attorney.

SEC. 3221. *Hearing—Discharge.*—At the hearing the defendant shall be examined on oath in reference to the facts set forth in such petition and his ability to pay such money judgment, and any other legal evidence in reference to such matters may be produced by any of the parties interested. If it appears that the defendant is unable to pay such judgment, the court may direct his discharge from custody, upon his making affidavit that he has not in his own name any property, real or personal, and has no such property conveyed or concealed, or in any manner disposed of with design to secure the same to his use or to avoid in any manner payment of such judgment. If upon such hearing it appears that the defendant has property, but not sufficient to pay such judgment, the court may make such order concerning the same, in connection with such discharge as justice may require. The defendant's discharge as aforesaid shall not affect the right of the county to collect upon execution any portion of such judgment remaining at any time unsatisfied, subject to all the provisions of law relating to judgments for the payment of money.

SEC. 3222. *Complaint by others than mother.*—If a woman is delivered of an illegitimate child, or is pregnant with a child likely to be illegitimate when born, the county board of the county where she resides, or any member thereof, or the State board of control or any person duly appointed to perform in said county any of the duties of said board relating to the welfare of children, may apply by complaint to a justice of this peace of the county or to a municipal court to inquire into the facts and circumstances of the case.

SEC. 3223. *Procedure—Warrant.*—Such justice or the judge of the municipal court may summon the woman to appear before him, and may examine her on oath respecting the father of such child, the time when and place where it was begotten, and any other facts he deems necessary for the discovery of the truth, and thereupon shall issue his warrant to apprehend the putative father. Thereafter the proceedings shall be the same as if the complaint has been made by such woman under the provisions of this chapter, and with like effect, and in all cases the complainant and the accused may require the attendance of such woman as a witness.

SEC. 3224. *Compromise by board.*—The county board, either before or after judgment, may make such compromise and settlement with the putative father of any illegitimate child, as they deem equitable and just, for expenses incurred by the county for which judgment may be or shall have been entered pursuant to section 3218.

SEC. 3225 (a). *Settlement by father.*—The State board of control or the duly appointed guardian of the person of an illegitimate child shall have authority to accept from the duly adjudged or acknowledged father of the child such sum as shall be approved by the court having jurisdiction of proceedings to establish the paternity of the child, in full settlement of all obligations for the care, maintenance and education of such child; and shall hold or dispose of the same as ordered by said court. Such settlement shall discharge the father of all further liability, civil and criminal, on account of such child; provided that such settlement shall not affect any liability of the father under section 3219.

SEC. 3225 (b). *Clerk to report name of adjudged father.*—Upon the entry of a judgment determining the paternity of an illegitimate child the clerk of the district court shall notify in writing the State registrar of vital statistics of the name of the person against whom such judgment has been entered, together with such other facts disclosed by his records as may assist in identifying the record of the birth of the child as the same may appear in the office of said registrar. If such judgment shall thereafter be vacated that fact shall be reported by the clerk in like manner.

SEC. 3225 (c). *Physician may testify.*—In any proceeding under this chapter a licensed physician or surgeon may testify concerning the fact and probable date of inception of the pregnancy of his patient without her consent, and shall so testify when duly called as a witness.

SEC. 3225 (d). *Purpose of act.*—This chapter shall be liberally construed with a view to affecting its purpose, which is primarily to safeguard the interests of illegitimate children and secure for them the nearest possible approximation to the care, support and education that they would be entitled to receive if born of lawful marriage, which purpose is hereby acknowledged and declared to be the duty of the State; and also to secure from the fathers of such children repayment of public moneys necessarily expended in connection with their birth.

SEC. 3225 (e). *Records private.*—All records of court proceedings in cases of alleged illegitimacy shall be withheld from inspection by, and copies thereof shall not be furnished to, persons other than the parties in interest and their attorneys, except upon order of the court.

Ch. 29. Public Health.

SEC. 4653-A. Immediately upon the receipt of a certificate of birth not accompanied with a certificate of death of the same child the local and state registrars, respectively, shall transcribe therefrom into a book to be known as the "public record of births" the following items of information: Name, sex, color or race and date of birth of child; county and city, town or village where birth occurred; name and age of mother. The public record of births shall be open to examination by all persons desiring to consult it, and from such book only shall transcripts be made for use in connection with school attendance and employment. (As added by Laws 1917, ch. 220. See also Note on birth registration laws.)

SEC. 4660-A. Whenever the clerk of a district court shall report to the State registrar that a judgment has been entered determining the paternity of an illegitimate child the State registrar shall record the name of the father, and sufficient data to identify the judgment, in connection with the record of the birth of the child appearing in his office, and also in connection with the record of the death of the child, if there be such record. A report by the clerk of the subsequent vacation of such judgment shall be recorded in like manner. (As added by Laws 1917, ch. 220.)

SEC. 4660-B. Except when so ordered by a court of record no member of the State board of health nor any state or local registrar, nor any person connected with the office of either, shall disclose the fact that any child was either legitimate or illegitimate. The district court shall have jurisdiction, upon petition against and notice to the State registrar, to issue such orders permitting or requiring the inspection of records of births and deaths, as to it may seem just and proper, and the making and delivery of certified copies thereof. (As added by Laws 1917, ch. 220.)

SEC. 4661. The State registrar, or any local registrar, shall furnish any applicant therefor a certified copy of the record of any birth or death recorded under the provisions of this act: *Provided*, That the fact that any child was either legitimate or illegitimate, or other facts from which such fact can be determined, shall not be disclosed except when ordered by a court of competent jurisdiction in accordance with section 4660-B. For the making and certification of a complete record the registrar shall be entitled to receive a fee of fifty cents, to be paid by the applicant; for a transcript from the public record of births he shall be entitled to a fee of twenty-five cents, to be paid in like manner. Such copy of the record of a birth or death, when certified by the State or local registrar to be a true transcript therefrom, shall be prima facie evidence of the facts therein stated in all courts of this State. The State registrar shall keep a correct account of all fees or moneys received by him under the provisions of this act, and pay the same over to the State treasurer at the end of each month. (As amended by Laws 1917, ch. 220.)

SEC. 4662. Any person who shall violate any of the provisions of this act, or shall wilfully neglect or refuse to perform any duty imposed upon him thereby, or shall furnish false information affecting any certificate or record provided in this chapter, or who shall disclose any information in violation of section 4660-B or 4661, shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one hundred dollars or imprisoned in the county jail for a period of not more than ninety days. (As amended by Laws 1917, ch. 220.)

Ch. 70. Marriage.

SEC. 7105. *Illegitimate children.*—Illegitimate children shall become legitimized by Legitimation and the subsequent marriage of their parents to each other, and the void marriages. issue of marriages declared null in law shall nevertheless be legitimate.

Ch. 74. Descent of property.

SEC. 7240. An illegitimate child shall inherit from his mother the same as if born in lawful wedlock, and also from the person who, in writing and before a competent attesting witness, shall have declared himself to be his father; but such child shall not inherit from the kindred of either parent by right of representation, unless during his life time his parents intermarry, in which case he shall no longer be deemed illegitimate.

SEC. 7241. *Estate of illegitimate child.*—If any illegitimate child dies intestate and without lawful issue, his estate shall descend to his mother, or, in Inheritance. case of her prior decease, to her heirs at law.

Ch. 98. Crimes.

SEC. 8697. Every person who shall endeavor to conceal the birth of a child by any disposition of its dead body, whether the child died before or after its birth, shall be guilty of a misdemeanor; and every woman who, having been convicted of endeavoring to conceal the stillbirth of any issue of her body, which if born alive would be illegitimate, or the death of such issue under the age of two years, shall, subsequent to such conviction, endeavor to conceal any such birth or death, shall be punished by imprisonment in the State prison for not more than five years. (As amended by Laws 1917, ch. 231.)

SEC. 8668-A. In any prosecution for desertion of or failure to support a wife or child no other or greater evidence shall be required to prove the relationship of the defendant to such wife or child than is or shall be required to prove such relationship in civil action. (As added by Laws 1917, ch. 213.)

SEC. 8703-A. *Absconding from State to avoid paternity proceedings.*—If issue is conceived of fornication, and within the period of gestation or within sixty days after the birth of a living child the father absconds from the State with intent to evade proceedings to establish his paternity of such child, he is guilty of a felony and shall be punished by imprisonment in the State prison for not more than two years. (Added by ch. 211, Laws of 1917.)

Laws of 1917, ch. 194.

An act to give the State board of control general duties for the protection of defective, illegitimate, dependent, neglected and delinquent children, with authority to act as guardian of children; and to provide for child-welfare boards in the several counties of the State to aid in the performance of such duties.

SEC. 2. *Illegitimate children.*—It shall be the duty of the board of control when notified of a woman who is delivered of an illegitimate child, or pregnant with child likely to be illegitimate when born, to take care that the interests of the child are safeguarded, that appropriate steps are taken to establish his paternity, and that there is secured for him the nearest possible approximation to the care, support and education that he would be entitled to if born of lawful marriage. For the better accomplishment of these purposes the board may initiate such legal or other action as is deemed necessary; may make such provision for the care, maintenance and education of the child as the best interests of the child may from time to time require, and may offer its aid and protection in such ways as are found wise and expedient to the unmarried woman approaching motherhood.

SEC. 3. *Duties in behalf of children—Executive officers.*—It shall be the duty of the board to promote the enforcement of all laws for the protection of defective, illegitimate, dependent, neglected and delinquent children, to cooperate to this end with juvenile courts and all reputable child-helping and child-placing agencies of a public or private character, and to take the initiative in all matters involving the interests of such children where adequate provision therefor has not already been made. The board shall have authority to appoint and fix the salaries of a chief executive officer and such assistants as shall be deemed necessary to carry out the purposes of this act.

SEC. 4. *County child-welfare boards—Appointment of agents.*—The State board of control may when requested so to do by the county board appoint in each county three persons resident therein, at least two of whom shall be women, who shall serve without compensation and hold office during the pleasure of the board, and who, together with a member to be designated by the county board from their own number and the county superintendent of schools, shall constitute a child-welfare board for the county, which shall select its own chairman: *Provided*, That in any county containing a city of the first class five members shall be appointed by the State board of control. The child-welfare board shall perform such duties as may be required of it by the said board of control in furtherance of the purposes of this act, and may appoint a secretary and all necessary assistants, who shall receive from the county such salaries as may be fixed by the child-welfare board with the approval of the county board. Persons thus appointed shall be the executive agents of the child-welfare board.

SEC. 5. *Agents where no child-welfare board.*—In counties where no child-welfare board exists the judge of the juvenile court may appoint a local agent to cooperate with the State board of control in furtherance of the purpose of this act, who shall receive from the county such salary as may be fixed by the judge with the approval of the county board.

Laws of 1917, ch. 212.

An act for the protection of children who are not in the homes and under the immediate control of their parents or guardians, and for the regulation of agencies receiving such children for care or placing out, and women during confinement, and to repeal section 4050 and sections 4935 to 4992, inclusive, General Statutes, 1913.

SEC. 8. *Maternity hospitals—Reporting illegitimacy.*—Whenever a child or a woman who within ten days has been delivered of a child, or a woman who is pregnant is received for cure in a maternity hospital or infants' home, or other public or private hospital, the licensee of such maternity hospital or home, or the officer in charge of such other hospital, shall use due diligence to ascertain whether such child is legitimate, and if there is reason to believe that he is illegitimate or will be illegitimate when born, such licensee or officer shall report to the State board of control, within such [time] as said board may prescribe, the presence of such woman or child, together with such other information as the board may require.

SEC. 9. *Same; records to be private.*—No officer or authorized agent of the State board of control, the State board of health or the local boards of health of the towns where such licensed hospitals or homes are located, or a licensee of such a hospital or home, or his agent, or any other person shall disclose the contents of the records herein provided for or the particulars entered therein, except upon inquiry before a court of law, at a coroner's inquest or before some other competent tribunal, or for the information of the State board of control, the State board of health or the local board of health of the town in which said hospital is located.

SEC. 10. *Same; relationship.*—In a prosecution under the provisions of this act or a penal law relating thereto, a defendant who relies for defense upon the relationship of any woman or infant to himself shall have the burden or [sic.] proof.

NOTE ON LAW REGARDING REGISTRATION OF BIRTHS, ETC.—The act regarding Public Health (chapter 29, General Statutes of 1913, sec. 4651, as amended by Chapter 220, Laws of 1917) provides that certificates of birth and of death shall state the name of the father, provided that if the child is illegitimate the name or residence of, or other identifying details relating to, the putative father, shall not be entered without his consent, except as provided in section 4660-A.

NOTE ON ADOPTION LAW.—The law provides that where an illegitimate child is adopted, the consent of the mother shall be obtained. The law also provides as follows:

When the parents of any minor child are dead or have abandoned him, and he has no guardian in the State, the court shall order three weeks' published notice of the hearing on such petition to be given; the last publication to be at least ten days before the time set therefor. In every such case the court shall cause such further notice to be given to the known kindred of the child as shall appear to be just and practicable: *Provided*, That if there be no duly appointed guardian, a parent who has lost custody of a child through divorce proceedings, and the father of an illegitimate child who has acknowledged his paternity in writing or against whom paternity has been duly adjudged shall be served with notice in such manner as the court shall direct in all cases where the residence is known or can be ascertained. (Secs. 7153-7155, as amended by Laws 1917, ch. 222.)

NOTE ON ABANDONMENT LAW.—The act relating to desertion and failure to support wife or child (General Statutes 1913, secs. 8666, 8667, 8668, as amended by chapter 213 of Laws of 1917) applies to every parent or other person having legal responsibility for the care or support of a child who is under the age of sixteen years and unable to support himself by lawful employment.

The sections as amended are as follows:

SEC. 8666. Every parent or other person having legal responsibility for the care or support of a child who is under the age of sixteen years and unable to support himself by lawful employment, who deserts and fails to care for and support such child with intent wholly to abandon him; and every husband who, without lawful excuse, deserts and fails to support his wife, while pregnant, with intent wholly to abandon her is guilty of a felony and upon conviction shall be punished therefor by imprisonment in the State prison for not more than five years. Desertion of and failure to support a child or pregnant wife for a period of three months shall be presumptive evidence of intention wholly to abandon.

SEC. 8667. Every man who, without lawful excuse willfully fails to furnish proper food, shelter, clothing, or medical attendance to his wife, such wife being in destitute circumstances; and every person having legal responsibility for the care or support of a child who is under sixteen years of age and unable to support himself by lawful employment, who willfully fails to make proper provision for such child,

is guilty of a misdemeanor. But if any person convicted under this section gives bond to the State, in such amount and with such sureties as the court prescribes and approves, conditioned to furnish the wife or child with proper food, shelter, clothing, and medical attendance for such a period, not exceeding five years, as the court may order, judgment shall be suspended until some condition of the bond is violated. The bond may, in the discretion of the court, be conditioned upon the payment of a specified sum of money at stated intervals. Upon the filing of an affidavit showing the violation of any of the conditions of the bond, the accused shall be heard upon an order to show cause, and, if the charge be sustained, the judgment shall be executed. The wife or child, and any person furnishing necessary food, shelter, clothing, or medical attendance to either, may sue upon the bond for a breach of any condition thereof.

SEC. 8668. On complaint being made in writing and under oath by the wife or any reputable person to a justice of the peace or judge of a municipal court, accusing any person of the offense defined in section 8667, the justice or judge shall issue his warrant against the person accused, directed to the sheriff or constable of the county, commanding him forthwith, to bring such accused person before the justice or judge to answer such complaint.

MISSISSIPPI.

Code of 1906.

SECTION 268. *Proceedings before justice of the peace.*—When any single woman shall be delivered of a bastard, or being pregnant with a child, which, if born alive, would be a bastard, shall make complaint against the father of the child to any justice of the peace of the county where she may be so delivered, or of the county in which such woman or the reputed father may reside, the justice shall issue a warrant for the person accused and cause him to be brought before such justice forthwith; and upon his appearance the justice shall proceed to question the woman in the presence of the party accused, touching the charge against him; and the examination of the woman and the accused and all witnesses shall be taken down in writing; and if such justice shall think there is probable cause for a complaint, he shall bind the accused, in a bond, with sufficient sureties, in a penalty of not less than five hundred dollars, to appear at the next circuit court, to answer the complaint, and in default of such security may commit the accused; but if the circuit court be in session the appearance of the party and the return of the proceedings shall be to that term. Either party may be represented by counsel, and the court shall have the necessary power to compel the attendance of witnesses; and the justice, in his discretion, may exclude all persons from the court room during the inquiry except the parties and their counsel and the constable or other officer, and the witnesses being examined.

SEC. 269. *The woman may appeal.*—In case the justice of the peace shall discharge the accused, the woman may appeal, by executing within five days a bond, with a sufficient surety, payable to the accused, in the penalty of one hundred dollars, conditioned to pay all costs that may be adjudged against her; which appeal shall be returnable as other appeals from justices of the peace.

SEC. 270. *Duty of the justice after his judgment.*—It shall be the duty of the justice, in case the accused shall have been required by him to give bond, or in case he shall discharge the accused, if the woman shall have appealed, to return the proceeding to the circuit court forthwith.

SEC. 271. *Proceedings in the circuit court.*—The circuit court may compel the appearance of the defendant, and enforce his bond to appear should he have given one, and may at one time, in its discretion, require the execution of an appearance-bond, if a sufficient one has not already been given, and that, too, whether the justice of the peace required bond or not of the accused. The plaintiff shall, on or before the first day of the term of the circuit court actually held, or within such time as the court may allow, file a declaration in the said cause, and the defendant may plead thereto as in other cases, and the issue shall be made up, but such issue shall not be tried before the birth of the child.

SEC. 272. *Death of mother; her evidence, etc.*—The death of the mother shall not abate the prosecution, if the child be living; but a suggestion of the fact shall be made, and the name of the child substituted in the proceedings for that of the mother, and a guardian ad litem shall be appointed by the court to prosecute the cause, who shall not be liable for costs; and in such case the testimony of the mother, taken in writing before the justice, may be read in evidence, and shall have the same force and effect as if she were living and had testified to the same in court.

SEC. 273. *Death of child.*—The death of the bastard, if the mother be living and unmarried, shall not be cause of abatement or bar to any prosecution for bastardy; but the court trying the same shall, on conviction, give judgment for such sum as shall be deemed just.

SEC. 274. *Death of reputed father.*—In case of the death of the putative father of the bastard, after the preliminary examination before the justice, the right of action shall survive, and may be prosecuted against the personal representative of the deceased with like effect as if such father were living, except that no arrest of such personal representative shall take place or bond be required of him.

SEC. 275. *Death of mother before suit begun.*—Should the mother die before beginning suit as provided, the suit may be commenced by the bastard child at any time before it is five years of age; and any person interested in the support of the child shall have the right to act for it in instituting and prosecuting the cause, and the proceedings and judgment shall be conformed to the right.

SEC. 276. *Dying declarations of the mother.*—In all bastardy proceedings when the mother is dead, her declarations in her travail, proved to be her dying declarations, may, on the trial of the case, be received in evidence.

SEC. 277. *Damages assessed.*—If the jury shall find for the complainant, it may assess such damages as it may think proper in her favor, or in favor of the child if the mother be dead, and may direct the same to be paid annually or otherwise for any term of years not exceeding eighteen, and the court shall render judgment accordingly. If the jury make an annual allowance, execution may be issued annually for the sum so allowed, computing from the term at which judgment was rendered. The clerk shall enroll the judgment on the judgment roll as are other judgments, making a separate enrollment of each annual allowance, in case there be annual allowances, and such enrollment shall constitute a first lien on all property of the defendant then owned or afterwards acquired by him, but said lien shall not take priority over any existing lien of record at the date of the enrollment of the judgment.

SEC. 278. *Limitation of complaint.*—Proceedings under this chapter shall not be instituted by the mother after the child is twelve months old, unless the defendant be absent from the State so that process can not be served on him.

SEC. 279. *Supervisors to sue in certain case.*—In case any bastard becomes a charge on the county, for the support of which proceedings have not been instituted, it shall be the duty of the board of supervisors to proceed, in the name of the county, against the father of the bastard, if known, as herein provided; and the proceedings shall be conformed to the right, and such suit may be brought within one year after the bastard becomes such charge; but such suit shall not be brought after the bastard is ten years of age.

SEC. 280. *Security may be required.*—The circuit court shall, in case the suit be by the county, and may, if the suit be begun by the mother, or child, require the defendant who has been found to be the father of the child to enter into bond, with sureties, to be approved by the court, or by such officer as the court may direct, in a penalty not greater than the amount of damages assessed by the jury, not to exceed one thousand dollars, payable to the State, and conditioned to pay the same, in manner and form, as required by the judgment entered in the case, for the support and education of the child, and that the child shall not become a public charge; and the defendant may be committed to jail and dealt with as convicts of misdemeanors until he shall comply with the order to give such bond.

SEC. 281. *Execution may be issued.*—Such bond, when given, shall be deposited in the office of the clerk of the chancery court of the county and be carefully preserved; and, on failure to make any of the annual payments for which it is conditioned, execution shall be issued thereon for such sum and costs; and the money collected thereby shall be paid to any guardian of the child, or to any person designated by the chancery court or the chancellor, to be applied to the support and education of such child.

SEC. 282. *Death of child, etc.*—If the child and mother die, or the father and mother be married, the chancery court of the county in which such bond is filed, on proof of the fact, may cause the bond to be marked "canceled," and be surrendered to the obligors.

SEC. 283. *Prisoner may be discharged after six months.*—The circuit court, or the judge thereof in vacation, may order any person in jail for a failure to comply with the requirements to give bond for the support and education of the child to be discharged, upon such terms as the court or judge may prescribe, after such person shall have been in jail for six months.

SEC. 542. *May alter names, legitimate offspring, and decree adoption of child.*—The chancery court shall have jurisdiction upon the petition of any person, to alter the name of such person, to make legitimate any of his offspring not born in wedlock, and to decree said offspring to be an heir of the petitioner; and any person who may desire to adopt another, whether an adult or

an infant, and to change the name of such other, may present his petition for that purpose to the chancery court of the county in which he resides, or in which such person sought to be adopted may reside, and shall state in the petition the name and age of the person sought to be adopted, and the names of the parents or guardian, in case of an infant, and their residence if they be living, the name proposed to be given such person sought to be adopted, and that he has obtained the consent of the parents, of [if] living, or the guardian, if there be any, in case of an infant, and of the person sought to be adopted, if over fourteen years of age, to the adoption and change of name as prayed for; and shall also state in the petition what gifts, grants, bequests or benefits he proposes to make or confer, if any, upon such person sought to be adopted; and the court shall hear the evidence and if satisfied that the allegations of the petition are true, and that the interest and welfare of the person sought to be adopted will be promoted by the adoption, may decree that such person be adopted by the petitioner, and that the name be changed to the name proposed, if a change of name is prayed for, and that said person so adopted shall thereafter be called by that name, and that such person so adopted shall be entitled to all the benefits proposed by the petitioner to be granted and conferred; and thereafter the petitioner shall have and exercise over such person so adopted all such power and control as parents have over their own children. The person sought to be adopted, if an infant, by next friend, and the parents or guardian, or if an adult, may join in said petition, or they may voluntarily appear and become parties thereto, otherwise the parties name[d], if living, shall be summoned in other cases, and the costs of the proceedings shall in all cases be paid by the petitioner. (As amended by Laws 1910, ch. 185.)

SEC. 721. *Actions for injuries producing death.*—* * * The provisions of this section shall apply to illegitimate children on account of the death of an illegitimate child or children, and they shall have all the benefits, rights and remedies conferred by this section on legitimates. (As amended by Laws 1914, ch. 214.)

SEC. 1655. *Descent among illegimates.*—If any man beget a child or children by a woman whom he shall afterwards marry, such child or children, if acknowledged by the man, shall, in virtue of such marriage and acknowledgment, be legitimate, and capable in law to inherit and transmit inheritance as if born in wedlock. All illegimates shall inherit from their mother, and from her other children, and from her kindred, according to the statutes of descent and distribution; and the children of illegimates and their descendants shall inherit from the brothers and sisters of their father or mother, whether legitimate or illegitimate, and from their grandparents. But the children of illegimates shall not inherit from any ancestor or collateral kindred if there be legitimate heirs of such ancestor or collateral kindred, in the same degree, to whom the estate would otherwise descend.

SEC. 1670. The decree of divorce shall not render illegitimate the children begotten between the parties during a lawful marriage; but if the decree be rendered because one of the parties was married to another at the time of the marriage or pretended marriage between the parties, it shall adjudge the marriage between the parties to have been invalid and void from the beginning, and the issue thereof shall be illegitimate and subject to the disabilities of illegitimate children. And the decree may provide (in the discretion of the court) that a party against whom a divorce is granted because of adultery, shall not be at liberty to marry again; in which case such party shall remain in law as a married person. In all cases of divorce from the bonds of matrimony, the marital rights shall cease with the decree.

MISSOURI.

Revised Statutes, 1909.

SECTION 340. *Bastards may inherit; when and how.*—Bastards shall be capable of inheriting and transmitting inheritance on the part of their mother, and such mother may inherit from her bastard child or children, in like manner as if they had been lawfully begotten of her.

SEC. 341. *Bastards legitimated by subsequent marriage; when.*—If a man, having by a woman a child or children, shall afterward intermarry with her, and shall recognize such child or children to be his, they shall thereby be legitimated.

SEC. 342. *Issue of certain marriages legitimate.*—The issue of all marriages decreed void marriages and null in law, or dissolved by divorce, shall be legitimate.

SEC. 344. *Issue of certain slave marriages legitimated.*—For the purposes of this article, the children of all parents who were slaves, and were living together in good faith as man and wife at the time of the birth of such children, shall be deemed and taken to be the legitimate children of such parents, and all the children of any one mother, who was a slave at the time of their birth, shall be deemed lawful brothers and sisters, for the purposes of this article.

SEC. 403. * * * When there shall be no lawful father, then the mother, if living, shall be the natural guardian and curator of their children. * * *
Guardianship. (As amended by Laws 1913, p. 92.)

SEC. 8280. *Certain marriages prohibited.*—All marriages between parents and children, including grandparents and grandchildren of every degree, between brothers and sisters of the half as well as of the whole blood, and between uncles and nieces, aunts and nephews, first cousins, white persons and negroes, white persons and Mongolians, are prohibited and declared absolutely void, and this prohibition shall apply to illegitimate as well as legitimate children and relatives.

SEC. 8291. The reputed father and mother of children who were born before the ceremony of marriage is performed, as provided by this chapter, may, at the time of solemnization of said marriage, give to the officer the names of their children then living, or the descendants of such as may be dead; and it shall be the duty of such officer to record such names with his certificate of marriage.

Records.

NOTE ON ABANDONMENT.—Abandonment law (section 4495, as amended by Laws 1911, p. 193), is confined to children born in or legitimated by lawful wedlock.

NOTE ON BIRTH REGISTRATION.—Birth certificate states whether child is legitimate or illegitimate. (Sec. 6677.)

NOTE.—The law regarding concealment of birth does not specially refer to illegitimate children. (Sec. 4470.)

MONTANA.

Revised Codes, 1907.

SECTION 3738. *Legitimacy of children born in wedlock.*—All children born in wedlock are presumed to be legitimate.

Presumption of legitimacy.

SEC. 3739. *Legitimacy of children born out of wedlock.*—All children of a woman who has been married, born within 10 months after the dissolution of the marriage, are presumed to be legitimate children of that marriage.

SEC. 3740. *Who may dispute the legitimacy of a child.*—The presumption of legitimacy can be disputed only by the husband or wife, or the descendant of one or both of them. Illegitimacy, in such case, may be proved like any other fact.

SEC. 3741. *Obligations of parents for the support and education of their children.*—The parent entitled to the custody of a child must give him support and education suitable to his circumstances. If the support and education which the father of a legitimate child is able to give is inadequate, the mother must assist him to the extent of her ability.

Support.

SEC. 3745. *Custody of illegitimate child.*—The mother of an illegitimate unmarried minor is entitled to its custody, services and earnings.

Custody.

SEC. 3760. *Child legitimized by marriage of parents.*—A child born before wedlock becomes legitimate by the subsequent marriage of its parents.

Legitimation.

SEC. 3770. *Adoption of illegitimate child.*—The father of an illegitimate child, by publicly acknowledging it as his own, receiving it as such, with the consent of the wife, if he is married, into his family, and otherwise treating it as if it were a legitimate child, thereby adopts it as such; and such child is thereupon deemed for all purposes legitimate from the time of its birth. The foregoing provisions of this chapter do not apply to such an adoption.

SEC. 3778. *Appointment by parent.*—A guardian of the person or property, or of both, of a child born, or likely to be born, may be nominated by will or deed, to take effect upon the death of the parent nominating:

Guardianship.

2. If the child be illegitimate, by the mother.

SEC. 4821. *Illegitimate children to inherit in certain events.*—Every illegitimate child is an heir of the person who, in writing, signed in the presence of a competent witness, acknowledges himself to be the father of such child; and in all cases is an heir of his mother; and inherits his or her estate, in whole or in part, as the case may be, in the same manner as if he had been born in lawful wedlock; but he does not represent his father or mother by inheriting any part of the estate of his or her kindred, either lineal or collateral, unless before his death, his parents shall have intermarried, and his father, after such marriage, acknowledges him as his child, or adopts him into his family, in which case such child and all the legitimate children are considered brothers and sisters, and on the death of either of them, intestate, and without issue, the others inherit his estate, and are heirs, as hereinbefore provided, in like manner as if all the children had been legitimate; saving to the father and mother respectively their rights in the estates of all the children in like manner as if all had been legitimate. The issue of all marriages null in law, or dissolved by divorce, are legitimate.

SEC. 4822. *The mother is a successor to illegitimate child.*—If an illegitimate child, who has not been acknowledged or adopted by his father, dies intestate, without lawful issue, his estate goes to his mother, or, in case of her decease, to her heirs at law.

SEC. 9576. *Complaint in bastardy; what to contain; how entitled.*—When any woman residing in any county of the State is delivered of a bastard child, or is pregnant with a child which, if born alive, will be a bastard, complaint may be made in writing by any person to the district court of the county where she resides, stating that fact, and charging the proper person with being the father thereof. The proceeding must be entitled in the name of the State against the accused as defendant.

SEC. 9577. *Clerk to give notice; how and to whom.*—Upon the filing of the complaint, duly verified, the clerk must cause notice to be given to the person so charged, as in an ordinary action.

SEC. 9578. *Lien upon real property; how created and for what.*—From the time of the filing of such complaint, a lien is created upon the real property of the accused in the county where the action is pending, for the payment of any money and the performance of any order adjudged by the proper court; but no lien attaches until notice of the pendency of the action is filed in the county clerk's office of the county where the real property is situated.

SEC. 9579. *Judge may order attachment without bond; when.*—The district judge may order an attachment to issue thereon without an undertaking, which order must specify the amount of property to be seized under the attachment, and may be revoked at any time by such judge or the court, on a showing made to either for a revocation of the same, and on such terms as such court or judge may deem proper in the premises.

SEC. 9580. *County attorney required to prosecute.*—The county attorney, on being notified of the facts, must prosecute the matter in behalf of the complainant.

SEC. 9581. *Issue on the trial shall be "guilty" or "not guilty."*—The issue on the trial is "guilty," or "not guilty," and must be tried as an ordinary action.

SEC. 9582. *Judgment and liability where accused found guilty.*—If the accused is found guilty, he must be charged with the maintenance of the child, in such sum, and in such manner as the court directs, with the costs of suit; and the clerk may issue execution for any sum ordered, to be paid immediately, and afterwards, from time to time, as may be required to compel compliance with the order of the court, and the defendant may be committed to the county jail until he complies with the order or judgment.

SEC. 9583. *Power of court over judgments and orders.*—The court may, at any time enlarge, diminish, or vacate any order or judgment rendered in the proceedings, on such notice to the defendant as the court or judge may prescribe.

NOTE ON ADOPTION.—The mother of the illegitimate child is recognized for the purpose of consent. (Sec. 3764.)

NOTE ON WORKMEN'S COMPENSATION LAW.—"Child" includes an illegitimate child legitimized prior to the injury. (Laws 1915, ch. 96, sec. 6.)

NOTE ON INCESTUOUS MARRIAGES.—The law applies to illegitimate relationship. (Sec. 3611.)

NEBRASKA.

Revised Statutes, 1913.

SECTION 1273. *When illegitimate child shall be considered an heir.*—Every illegitimate child shall be considered as an heir of the person who shall, in writing, signed in the presence of a competent witness, have acknowledged himself to be the father of such child, and shall in all cases be considered as an heir of his mother, and shall inherit his or her estate in whole or in part as the case may be, in the same manner as if he had been born in lawful wedlock; but he shall not be allowed to claim, as representing his father or mother, any part of the estate of his or her kindred, either lineal or collateral, unless, before his death, his parents shall have intermarried and had other children, and his father, after such marriage, shall have acknowledged him, as aforesaid, or adopted him into his family, in which case such child and all legitimate children shall be considered as brothers and sisters, and on the death of either of them intestate, and without issue, the other shall inherit his estate, and he theirs, as hereinbefore provided, in like manner as if all the children had been legitimate, saving to the father and mother respectively their rights in the estate of all the said children as provided hereinbefore, in like manner as if all had been legitimate.

SEC. 1274. *How estate of illegitimate child shall descend.*—If an illegitimate child shall die intestate, without lawful issue, his estate shall descend to his mother, or, in case of her decease, to her heirs at law.

SEC. 1591. *Legitimacy of children.*—A divorce for the cause of adultery committed by the wife shall not affect the legitimacy of the issue of the marriage, but the legitimacy of such children, if questioned, may be determined by the court upon the proofs in the case; and in every case the legitimacy of all children begotten before the commencement of the suit shall be presumed until the contrary be shown.

SEC. 1592. *Issue of marriage legitimate.*—Upon the dissolution of a marriage on account of the nonage, insanity, or idiocy of either party, the issue of the marriage shall be deemed to be, in all respects, the legitimate issue of the parent, who, at the time of the marriage, was capable of contracting.

SEC. 1593. *Prior marriage.*—When a marriage is dissolved on account of a prior marriage of either, and it shall appear that the second marriage was contracted in good faith and with the full belief of the parties that the former wife or husband was dead, the fact shall be stated in the decree of divorce or nullity, and the issue of such second marriage, born or begotten before the commencement of the suit, shall be deemed to be legitimate issue of the parent who, at the time of marriage, was capable of contracting.

SEC. 1594. *When issue deemed illegitimate.*—Upon the dissolution by decree or sentence of nullity of any marriage that is prohibited on account of consanguinity between the parties, or of any marriage between a white person and a negro, the issue of the marriage shall be deemed to be illegitimate.

SEC. 357. *Proceedings relative to bastard children.*—On complaint made to any justice of the peace in this State by any unmarried woman resident therein, who shall hereafter be delivered of a bastard child, or being pregnant with a child which, if born alive, may be a bastard, accusing on oath or affirmation any person of being the father of said child, the justice shall take such accusation in writing, and thereupon issue his warrant, directed to the sheriff, coroner, or constable of any county of this State, commanding him forthwith to bring such accused person before said justice, to answer to said complaint; and on return of such warrant the justice, in the presence of the accused person, shall examine the complainant under oath respecting the cause of her complaint, and such accused person shall be allowed to ask the complainant, when under oath, any question he may think necessary for his justification; all of which questions and answers, together with every other part of the examination, shall be reduced to writing by the justice of the peace, and if, on such examination, the party accused shall pay or secure to be paid to the complainant such sum or sums of money or property as she may agree to receive in full satisfaction, and shall further give bonds to the county board of the county in which said complainant shall reside and their successors in office, conditioned to save such county free from all charges toward the maintenance of said child, then and in that case the justice shall discharge the party accused out of custody on his paying the costs of prosecution: *Provided*, The agreement aforesaid shall be made or acknowledged by both parties in the presence of the justice, who shall thereupon enter a memorandum of the same upon his docket.

SEC. 358. *County to bring suit against father of bastard.*—When any woman has a bastard child, and neglects to bring a suit for its maintenance, or commences a suit and fails to prosecute to final judgment, the county board in any county interested in the support of any such bastard child, where sufficient security is not offered to save the county from expense, may bring a suit in behalf of the county against him who is accused of begetting such child, or may take up and prosecute a suit begun by the mother of the child.

SEC. 359. *Accused person, when recognized.*—In case such accused person does not comply with the provisions in the first section of this chapter [357] contained, the justice to whom such complaint was made shall bind such person in a recognizance to appear at the next term of the district court, with sufficient security, in a sum not less than five hundred dollars, nor more than two thousand dollars, for the benefit of the county in which such bastard child shall be born, to answer such accusation, and to abide the order of the court thereon, and on neglect or refusal to find such security, the justice shall cause him to be committed to the jail of the county, there to be held to answer such complaint.

SEC. 360. *Renewal of bonds for recognizance.*—If, at the time of such court, the woman be not delivered, or be unable to attend, the court shall order the renewal of the bonds of recognizance, that the accused person shall be forthcoming at the next court after the birth of the child, at which the mother of said child shall be able to attend; and the continuance of such bonds shall be entered by order of said court unless the security shall object thereto, and shall have the same force and effect as a recognizance taken in court for that purpose.

SEC. 361. *When issue to be tried by a jury.*—When such accused person shall plead not guilty to such charge before the court to which he is recognized, the court shall order the issue to be tried by a jury; and at the trial of such issue the examination before the justice shall be given in evidence, and the mother of the bastard child shall be admitted as a competent witness, and her credibility be left to the jury: *Provided, always,* No woman shall be admitted as a witness as aforesaid who has been convicted of any crime which would by law disqualify her from being a witness in any other case; and on the trial of the issue the jury shall, in behalf of the man accused, take into consideration any want of credibility in the mother of the bastard child; also any variations in her testimony before the justice and that before the jury; and also any other confession of her, at any time, which does not agree with her testimony, on any other plea or proofs made and produced on behalf of such accused person.

SEC. 362. *Proceedings, if defendant found guilty.*—In case the jury find the defendant guilty, or such accused person before the trial, shall confess in court that the accusation is true, he shall be judged the reputed father of such child, and shall stand charged with the maintenance thereof in such a sum or sums as the court may order and direct, with payment of costs of prosecution, and the court shall require the reputed father to give security to perform the aforesaid order, and in case the said reputed father shall neglect or refuse to give security as aforesaid, and pay the costs of prosecution, he shall be committed to the jail of the county, to remain till he shall comply with the order of the court.

SEC. 363. *When any defendant admitted to bail.*—When any defendant to a complaint of bastardy shall have been committed to jail on neglect or refusal to find the security required by the third section of this chapter [359], or on failure of such defendant to renew his recognizance as required by the fourth section of this chapter [360], it shall be lawful for any judge of the district court or probate judge within his county to admit such defendant to bail by recognizing him in such sum and with such securities as such judge shall deem proper, conditioned for the appearance of such defendant before the proper court to answer the complaint made, under which he stands charged; and for taking such bail the said judge may by his special warrant, under his hand, require the sheriff or jailer to bring such defendant before him at the courthouse of the proper county, at such time as in such warrant the judge may direct: *Provided,* In fixing the amount of bail, the judge admitting the same shall be governed in the amount and quality of bail required by the third section of this chapter [359].

SEC. 364. *Warrant for arrest of defendant.*—The warrant authorized to be issued by this chapter against any accused person shall authorize and empower the officer to which it is directed to pursue and take the accused person in any county in this State, and to bring such accused person before the justice who issued said warrant, to answer the complaint made against him.

SEC. 8614. *Abandonment of wife or child.*—Whoever, without good cause, abandons his wife and willfully neglects or refuses to maintain or provide for her, or whoever abandons his or her legitimate or illegitimate child or children under the age of sixteen years, and willfully neglects or refuses to provide for such child or children, shall, upon conviction, be deemed guilty of a desertion and be punished by imprisonment in the penitentiary

Abandonment and nonsupport.

for not more than one year, or by imprisonment in the county jail for not more than six months.

SEC. 8615. *Bond to support—Suspension of sentence.*—If at any time after complaint has been filed in the justice court, or the county court of the county in which the offense shall have been committed, such husband or parent shall appear before the court in which he stands charged and shall pay or secure to be paid to the wife or to the legal representative of the child or children, other than the accused, such sum or sums of money or property as may be agreed upon: *Provided*, Such sum so agreed or required to be paid shall not be less than two hundred dollars nor more than one thousand dollars, then the court may discharge the party accused out of custody on his paying the costs of prosecution. And if, after conviction and before sentence, the accused shall make settlement with his wife, or with the legal representatives of his children, in the same manner as herein provided for settlement before conviction and shall enter into bond to the State of Nebraska in the penal sum of not less than two hundred dollars nor more than one thousand dollars to the approval of the court as to surety and as to sum, conditioned that such husband will furnish said wife with necessary and proper home, food, care and clothing, or that such parent will furnish said child or children with necessary and proper home, food, care, and clothing, or will so furnish both said wife and child or children, on his paying the costs of prosecution, then the court may suspend sentence therein. Said bond shall remain in force as long as the district judge deems the same necessary; and whenever it shall appear to the court, either by affidavit or otherwise, that said husband or parent is, in good faith, furnishing his wife, child or children with the necessary and proper home, food, care and clothing, then the court may annul said bond and dismiss the prosecution against such husband or parent.

SEC. 8616. *On failure to comply with undertaking, arrested.*—Upon the failure of such husband or parent to comply with said undertaking, he or she may be arrested by the sheriff or other officer on a warrant issued on the precept of the prosecuting attorney, and brought before the court for commitment, whereupon the court may commit, or for good cause shown, may modify the order and take a new undertaking and further suspend sentence as may be just and proper.

NOTE ON INCESTUOUS MARRIAGES.—The law applies to illegitimate children and relatives. (Sec. 1542.)

NOTE ON ADOPTION.—The mother of an illegitimate child is recognized for purpose of consent. (Secs. 1616, 1620.)

NOTE ON BIRTH REGISTRATION.—Birth certificate on U. S. Census Bureau standard form. (Sec. 2748.)

NEVADA.

Revised Laws, 1912.

SECTION 765. *Paternity; how established—Complaint.*—Under this act the paternity of any illegitimate child shall be established by mutual agreement of the mother and any person whose relations have been sufficiently intimate with her to warrant the conclusion. It may also be established by the confession or admission of the father, when not denied by the mother; and when not so established it shall be susceptible of proof in such manner and of such character as the court before whom an action for that purpose is brought may determine. The mother of the child shall be admitted as a witness in support of the complaint, and may be compelled to testify. No complaint shall be withdrawn, dismissed, or settled by agreement of the mother and putative father.

SEC. 766. *Parent guilty of misdemeanor; when—Punishment—Custody of child.*—The parent of any illegitimate child who abandons, refuses, or neglects to support such child shall be guilty of a misdemeanor, and on conviction shall be fined not less than fifty (\$50) dollars, nor more than three hundred (\$300) dollars, and in default of the payment of such fine, shall be imprisoned in the county jail until such fine shall be paid, at the rate of two dollars per day for the term of such imprisonment. The court may also adjudge that the putative father stands charged with the maintenance of said child, with the assistance of the mother; but nothing in this act shall be so construed as to take from the mother the custody of her child. Whenever the court shall make such order, any refusal or neglect of said putative father to comply with the order of the court shall be deemed a contempt of court, and punished as other cases are for contempt.

Illegitimacy proceedings.

Abandonment and nonsupport; illegitimacy proceedings; custody.

SEC. 2339. *Marriage—Legal age—Consanguinity—Consent of parents.*—Male persons of the age of eighteen years, and female persons of the age of sixteen years, not nearer of kin than second cousins or cousins of the half-blood, and not having a husband or wife living, may be joined in marriage: *Provided*, That male persons under the age of twenty-one years and female persons under the age of eighteen years, shall first obtain the consent of their fathers, respectively, or in case of the death or incapacity of their fathers, then of their mothers or guardians: *And provided, further*, That nothing in this act shall be construed so as to make the issue of any marriage illegitimate if the person or persons shall not be of lawful age.

SEC. 2351. *Illegitimate children legitimized.*—Illegitimate children shall become legitimized by the subsequent marriage of their parents with each other.

SEC. 5833. *When illegitimate child deemed adopted by conduct of father—Effect—Acknowledged by father becomes legitimate from birth.*—The father of an illegitimate child, by publicly acknowledging it as his own, or receiving it as such, with the consent of his wife, if he is married, into his family, or otherwise treating it as his legitimate child, thereby adopts it as such; and such child shall, thereupon and thenceforth, be deemed, for all purposes, legitimate from the time of its birth. The provisions of the foregoing sections of this act do not apply to such an adoption, except as specified in section 4 of this act.

SEC. 6117. *Illegitimate child; inheritance of—Acknowledgment by father—Issue of null or dissolved marriage deemed legitimate.*—Every illegitimate child shall be considered as an heir of the person who shall acknowledge himself to be the father of such child by signing in writing a declaration to that effect in the presence of one credible witness, who shall sign the declaration also as a witness, and shall in all cases be considered as heir of the mother, and shall inherit in whole or in part, as the case may be, in the same manner as if born in lawful wedlock. The issue of all marriages deemed null in law or dissolved by divorce shall be legitimate.

SEC. 6118. *Heirs of illegitimate child.*—If any illegitimate child shall die intestate, without lawful issue and shall not have been acknowledged as above provided, his estate shall descend to his mother, or, in case of her decease, to her heirs at law.

NOTE ON ADOPTION.—The mother of the illegitimate child is recognized for purposes of consent (secs. 5828, 746); also for purpose of notice in the Juvenile Court law. (Sec. 731.)

NOTE ON BIRTH REGISTRATION.—Certificate states whether child is legitimate or illegitimate. (Sec. 2965.)

NOTE ON WORKMAN'S COMPENSATION LAW.—Dependents include children the age of eighteen years, "whether legitimate or illegitimate." (Laws 1917, ch. 233, sec. 26.)

NEW HAMPSHIRE.

Public Statutes, 1901.

Ch. 83. Settlement of paupers.

SECTION 1. III. Illegitimate children shall have the settlement of their mother at the time of their birth, if any she has within the State.

Ch. 87. Maintenance of bastard children.

SEC. 1. If any woman is pregnant with a child which, if born alive, may be a bastard, she may make complaint in writing, under oath, to any justice of the peace, against any man, charging him with having begotten the child; and the justice may thereupon issue his warrant commanding the person so charged to be brought before some justice of the peace in and for the county in which the offense is alleged to have been committed, or in which the person so charged may reside.

SEC. 2. The justice before whom the person shall be brought may order him to recognize in a reasonable sum, with sufficient sureties to the satisfaction of the justice, to appear at the trial term of the superior court next to be holden within and for the county in which the offense is charged to have been committed, or in which the person so charged may reside, to answer to the complaint and to abide the order of the court thereon, and in default thereof may commit him until the order is performed. (As amended by Laws 1907, ch. 58.)

SEC. 3. The justice shall make a certified copy of each paper in the case, and deliver the same to the complainant, or return the same to court on or before the first day of the term aforesaid; and the complaint shall be entered at such term, and tried by the court, unless either party requests a jury; in which case it shall be tried by a jury, and the issue shall be, chargeable or not chargeable.

SEC. 4. If any man is found chargeable, the court shall order him to pay such sum as they deem reasonable, to the mother of the child or to the selectmen of the town liable by law for the maintenance of the child, to be applied for such maintenance, and also to pay costs of prosecution; and the court may order him, or the mother, or both, to give security to save the town harmless from all charge for the maintenance of the child. Any person who shall neglect or refuse to obey any such order may be committed until the same is obeyed.

SEC. 5. If any woman, after having made her complaint, shall abandon the same, the town liable, upon application to the court or justice in writing, made by their selectmen, agent, or attorney, shall be admitted to prosecute the complaint, a record whereof shall be made; and all subsequent proceedings shall be the same as if the complaint had been instituted originally by the town.

SEC. 6. If the mother of a bastard child neglects or refuses to make complaint, or having made complaint neglects to prosecute the same in court, or shall, in the opinion of the selectmen of any town liable, make a false complaint, any justice of the peace to whom complaint may be by said selectmen, at any time before the expiration of one year from the birth of the child, against any man, charging him with having begotten such bastard, may issue his warrant directing such person to be brought before some justice of the peace in the county in which the offense was committed or in which the offender may reside.

SEC. 7. The complaint shall be in the name of the town, and the proceedings thereon shall be the same in all respects as if the mother had complained. If found chargeable, the father shall be ordered to give security to save the town harmless from the maintenance of such child, pay all costs of prosecution, and stand committed until the order shall be performed.

SEC. 8. Whenever any town is a party to such prosecution, and the party accused shall be found not chargeable, he shall recover his costs against the town.

SEC. 9. The county commissioners shall have the same power to institute, prosecute, and control any such complaint, where the woman is or may be a county pauper, as selectmen of towns have in the case of town paupers; and the county shall be liable for costs when the accused is found not chargeable.

SEC. 10. If any person committed to prison by virtue of this chapter is poor, and unable to pay such sum or to procure such security as may be ordered, any justice of the supreme court, upon application in term time or vacation, may discharge such person from imprisonment at such time and upon such terms as he thinks expedient.

SEC. 11. Whenever a warrant shall be issued by any justice, and the person charged therein shall, either before or after the issuing thereof, escape or go out of the county, the sheriff thereof or his deputy, or any constable of the town to whom such warrant shall be directed, may pursue such person, and apprehend him in any county, and carry him before any justice in the county in which he was apprehended for examination.

SEC. 12. If it appear to the justice that the warrant was duly issued, and that the person did escape or go out from such other county as aforesaid, he shall thereupon issue his warrant, directed to such sheriff, deputy, or constable, commanding him to carry the person before some justice in the county from which he had so escaped or gone out, for trial, that such further proceedings may be had thereon as the law requires.

Ch. 174. Marriages.

SEC. 3. Every marriage contracted by parties within the degrees prohibited by the two preceding sections is incestuous and void, and the issue of such marriage illegitimate.

Void marriages.

SEC. 18. Where the parents of children born before marriage afterwards intermarry, and recognize such children as their own, such child shall be legitimate and shall inherit equally with their other children under the statute of distribution.

Legitimation.

children under the statute of distribution.

Ch. 175. Divorce.

SEC. 7. No decree of divorce shall affect the legitimacy of a child born or begotten in lawful matrimony, unless it shall be so expressed in the decree.

Divorce.

Ch. 196. Descent: distribution.

SEC. 4. The heirs of a bastard in the ascending and collateral-lines, shall be the mother and her heirs; and bastards and their issue shall be heirs of the mother and her kindred (as amended by Laws 1905, Ch. 4.)

SEC. 5. When the mother of a bastard dies, her real estate shall descend and her personal estate be distributed in equal shares to her legitimate and illegitimate children and their issue.

Ch. 278. Homicide.

SEC. 14. If any woman shall be privately delivered of a child, which if born alive would be a bastard, and shall endeavor privately to conceal its death and the manner or cause thereof, she shall be imprisoned not exceeding two years, or be fined not exceeding two thousand dollars.

Laws of 1911, Ch. 134.

SEC. 12. The mother of an illegitimate infant under three years of age, who is a resident of this State, and who has previously borne a good character, may, in writing, signed by her, and with the consent of said State board of charities and correction, give up such infant to said board for adoption; and said State board, if it deems such action for the public interest, may in its discretion and on such conditions as it may impose, receive such infant and provide therefor. Such surrender by the mother shall operate as a consent by her to any adoption subsequently approved by said board.

NOTE ON ADOPTION.—The mother of an illegitimate child is recognized for purpose of consent. (Public Statutes 1901, ch. 181, sec. 2.)

NOTE ON ABANDONMENT LAW.—Any person who shall * * * without lawful excuse desert or wilfully neglect or refuse to provide for the support and maintenance of his or her legitimate or illegitimate minor child or children under the age of sixteen years in destitute or necessitous circumstances shall be guilty of a crime and on conviction thereof shall be punished by fine not exceeding three hundred dollars (\$300) or imprisonment for a term not exceeding fifteen months, or both such fine and imprisonment, in the discretion of the court. (Laws 1913, ch. 57, sec. 1.)

NEW JERSEY.

Compiled Statutes, 1910 (and Supplement 1911-1915).

Bastards, p. 184. An act for the maintenance of bastard children (revision of 1898).

I. PROCEEDINGS TO APPREHEND PUTATIVE FATHER OF BASTARD.

SECTION 1. *Overseer of poor to apply to magistrate.*—If any woman shall be delivered of a bastard child, which shall be chargeable or likely to become chargeable to any township; or shall declare herself to be pregnant of a child likely to be born a bastard, and to become chargeable to any township, any overseer of the poor of the township where such woman may be, or of the township wherein the legal settlement of such woman may be, may apply to a magistrate of the same county wherein such woman may be, to make inquiry into the facts and circumstances of the case. (P. L. 1898, p. 959.)

SEC. 2. *Examination of mother—Warrant against reputed father.*—Such magistrate shall, by the examination of such woman on oath, and upon such other testimony as may be offered, ascertain the father of such bastard, or of such child likely to be born a bastard; and shall thereupon issue his warrant, directed to any constable or police officer of the county, commanding him forthwith to apprehend such reputed father, and to bring him before such magistrate, for the purpose of having an adjudication respecting the filiation of such bastard, or of such child likely to be born a bastard. (P. L. 1898, p. 959.)

SEC. 3. *Proceedings against reputed father if out of county.*—If the person charged as such reputed father shall be or reside in any other county of the State than that in which such warrant shall be issued, the magistrate issuing the same shall, in writing thereupon, direct the sum in which any bond shall be taken of the party so charged, and it shall be the duty of the person serving said warrant to carry it to some magistrate of the county wherein such person resides, or can be found; the magistrate to whom the same shall be presented, on proof being made to him of the handwriting of the magistrate who issued such warrant, shall indorse his name thereon, with an authority to arrest such person in the county where the magistrate so indorsing shall reside, which shall be a sufficient authority to the officer bringing such warrant in the county where it shall be indorsed so to do. (P. L. 1898, p. 960.)

SEC. 4. *Bond to be taken by magistrate—Discharge thereon—Proceedings if no bond taken before magistrate.*—Upon the party so charged being apprehended, he shall be carried before the magistrate who indorsed the said warrant, or some other magistrate of the same county, who may take from such person a bond to the State of New Jersey, with good and sufficient surety or sureties in the sum so directed on the said warrant, for his appearance at a time therein stated before the magistrate who issued said warrant, and thereafter from time to time as said magistrate shall direct, and thereupon the magistrate taking said bond shall discharge the person so apprehended from arrest and shall indorse upon the warrant a certificate to that effect; he shall deliver the warrant, with the bond so taken by him, to the officer who brought such warrant; who shall deliver the same to the magistrate who granted the same; who shall proceed thereupon in the same manner as if such bond had been taken by him; and if no such bond be given, then the officer having the warrant shall take such person before the magistrate who originally issued the warrant. (P. L. 1898, p. 960.)

II. EXAMINATION BEFORE MAGISTRATES.

SEC. 5. *Examination.*—Upon the person so charged, appearing or being brought before the magistrate who issued the warrant for his apprehension, whether he was arrested in the same or any other county, the said magistrate, if the party charged does not demand a trial by jury, shall proceed, without unnecessary delay, to make examination of the matter; and shall examine the mother of such bastard, or the woman so pregnant as aforesaid, on oath, in the presence of the person so charged, touching the father of such child, and shall hear any proofs that may be offered in relation thereto; and, on application, the magistrate shall issue subpoenas to compel the attendance of witnesses before him, which shall have the same effect as if they were issued in the court for the trial of small causes. (P. L. 1898, p. 961.)

SEC. 6. *Trial by jury, if demanded.*—If the person charged shall, before such examination is entered upon, deny that he is the father of such bastard child, or of such child likely to be born a bastard, and shall demand a trial by jury, it shall be the duty of the said magistrate to issue a venire facias to any police officer or constable of said county to summon a jury of twelve men competent as jurymen, according to law, to be and appear before said magistrate at such time and place as shall be expressed in said writ, to make a jury for the trial of such accusation made against said person, of being the father of such child; a return of which jurors shall be made, as in cases arising under the act for the trial of small causes, and as to any or all of whom the same right of challenge shall belong to both parties, that exist in civil cases at law; and said magistrate shall proceed to impanel and swear such jury, and swear the witnesses produced to establish and rebut such accusation, and the said accusation shall thereupon be tried as in cases in courts of common law before such jury: *Provided*, That at the time of making application or demand for a trial by jury, the person so applying for or demanding such trial by jury shall pay to the said magistrate the fees or costs required for the issuance of the venire and the costs of such jury, which said costs shall include the fees of the jurors to be empaneled. (P. L. 1898, p. 961, as amended P. L. 1902, p. 680.)

SEC. 7. *Adjournment—Bond for appearance or commitment.*—If sufficient reasons are given therefor, the said magistrate may adjourn said hearing or trial for any time not exceeding six weeks, and if no bond has previously been given, said magistrate shall take a bond with sureties, if the same shall be tendered, from the person so charged for his appearance at such time, before him, in the penalty hereinafter directed; if no bond be given, the said magistrate shall commit the said person charged to the jail of said county, there to remain until said day of adjournment. (P. L. 1898, p. 961.)

SEC. 8. *Finding—Discharge of person charged, or order of filiation thereon.*—At the trial aforesaid, the said magistrate, or the said jury, in case a jury has been demanded, shall decide whether the person so charged is the father of such bastard, or of such child likely to be born a bastard; if the decision is that he is not the father of such bastard, or child likely to be born a bastard, he shall be forthwith discharged; but if the decision is that he is such father, the said magistrate shall make an order of filiation, in which he shall specify the sum to be paid weekly, or otherwise, by such putative father, for the support of such bastard, or of such child likely to be born a bastard, after the same shall be born; if the mother of such child be in indigent circumstances he shall determine the sum to be paid by such putative father for the sustenance of such mother during her confinement; he shall certify the reasonable expenses of apprehending the said father, and of the trial and order of filiation; and he shall reduce his proceedings to writing and subscribe the same. (P. L. 1898, p. 962.)

SEC. 9. *Reputed father to pay costs, and give bond.*—Such person so adjudged to be the reputed father shall, upon notice of such order, immediately pay the amount so certified for the costs of apprehending him, and of the trial and order of filiation; and shall also enter into bond to the State of New Jersey in such sum as such magistrate shall direct, with good and sufficient surety or sureties, to be approved by him, conditioned that such person will obey and comply with the said order of filiation so made against him, and will indemnify each and every of the townships of this State which may have incurred any costs of expense for the support of such bastard, or child likely to be born a bastard, or of its mother during her confinement, or from any proceedings arising therefrom. (P. L. 1898, p. 962.)

SEC. 10. *Discharge from arrest on giving bond, or commitment.*—Upon such bond being executed to the satisfaction of said magistrate, he shall discharge such person from arrest; but if he refuses or neglects to execute such bond, or to pay the costs and charges so certified, he shall be committed by such magistrate to the “penitentiary or” common jail of the county, there to remain until he shall pay such costs and charges and execute such bond, or until discharged according to law. (P. L. 1898, p. 962, as amended P. L. 1904, p. 58.)

SEC. 11. *Penalty of bond.*—The penalty of every bond which shall be taken for the appearance of any such reputed father, or for indemnifying the townships, shall, in all cases, be such a sum as shall insure a full indemnity to every township in the State for the expense that has been, or which may be, incurred by reason of supporting such bastard and its mother during her confinement and the costs of all proceedings connected therewith. (P. L. 1898, p. 963.)

III. APPEAL TO SESSIONS.

SEC. 12. *Appeal—Notice—Notice of hearing.*—Any person so charged as aforesaid, or any township, that may deem himself or itself aggrieved by the finding of the magistrate or of the jury, or order of any magistrate, may, within five days thereafter, upon written notice to such magistrate, appeal therefrom to the court of quarter sessions of the county wherein such trial was had, and such case may be brought to hearing before said court on ten days' notice to the other side, or as soon thereafter as said court can hear the same, and such appeal shall not operate as a stay to any order of filiation made by the magistrate before whom such case was tried. (P. L. 1898, p. 963.)

SEC. 13. *Magistrate to send up papers.*—In case of appeal the said magistrate shall send any bond which has been taken from the person charged, to the clerk of said court of quarter sessions, immediately after receiving said notice of appeal, together with the order of filiation and sustenance aforesaid and all the papers connected therewith. (P. L. 1898, p. 963.)

SEC. 14. *Proceedings on appeal—Evidence if mother dead, etc.—Trial by jury if demanded—No new bond for appearance required.*—The said court to which such appeal shall be made shall have full cognizance of the case, and shall proceed to hear the allegation and proofs of the respective parties, the burthen of proof being upon the township as it was before said magistrate; if the mother of any bastard be dead, or is insane, or has left the State, the testimony given by her on her examination shall be received in the same manner as if she were present and testified to the same; the court shall have power to adjourn the hearing from time to time, on sufficient cause shown; at the request of either party the case shall be tried before a jury in the same manner as before said magistrate; and no new bond for the appearance of the person so charged before said court shall be required of him, but the sureties on the bond given before the magistrate shall remain liable for his appearance before said court. (P. L. 1898, p. 963.)

SEC. 15. *Decision and discharge thereon of person charged, or examination of order of filiation—Order not to be quashed for defect in form.*—If on the trial of said appeal it is decided that the said person charged is not the father of such bastard or child likely to be born a bastard, he shall be forthwith discharged from his imprisonment, or if he has given a bond it shall be cancelled by order of the court; but if the decision be against the party charged, the court shall proceed to examine the order of filiation or sustenance, and may reduce or increase the sum directed by such order to be paid; but the same shall not be quashed for any defects in the form thereof, but may be amended by the court according to the facts and justice of the case. (P. L. 1898, p. 964.)

SEC. 16. *Person charged, on decision against him, to pay costs and expenses and give bond, or be committed.*—If the decision of such court is against the person so charged, he shall pay such costs and expenses as the court shall adjudge, to be paid by him forthwith, and shall enter into a bond to the State of New Jersey in such amount as the court shall order, with approved surety or sureties, with a condition similar in substance with the condition set forth in section nine of this act; if he shall neglect or re-

fuse to pay such costs and expenses and execute such bond he shall be committed to the common jail of the county, there to remain until he shall pay the same and execute the bond aforesaid, or be discharged by said court in the manner hereinafter provided; and upon such payment of said costs and expenses and the execution of such new bond, or such commitment in default thereof, any bond he may have previously given pursuant to the ninth section of this act shall be cancelled by order of the court, and shall thereby become null and void. (P. L. 1898, p. 964, as amended P. L. 1900, p. 338.)

SEC. 17. *Bond for appearance forfeited, on failure to pay costs and expenses and give bond required.*—If the person against whom such decision was rendered shall depart the said court without paying such costs and expenses or executing the bond in the next preceding section required, or without being discharged by the said court, his said bond, with condition to appear, before the magistrate who issued the warrant, shall be thereby deemed to be forfeited, and may be prosecuted as directed in the next section. (P. L. 1898, p. 964.)

IV. BONDS AND SUITS THEREON, ETC.

SEC. 18. *Breach of bond; prosecution thereon—Assignment of breaches—What constitutes breach—Damages—Scire facias on further breaches—Application of section to previous bonds.*—When any bond shall be taken as hereinafter mentioned, and any breach shall happen in the condition thereof, the same may be prosecuted by the prosecutor of the pleas of the county in which proceedings were originally taken under this act, or by the counsel or attorney of any township at whose instance such proceedings were originally taken, which suit shall be in the name of the State of New Jersey, and judgment, if it passes against the defendants, shall be for the penalty thereof; in such actions the breaches shall be assigned as in actions brought on bonds with condition other than for the payment of money, and the same proceedings shall be had in all respects; it shall not be necessary to prove the actual payment of money by any township or overseer of the poor, but the neglect to pay any sum which shall have been ordered to be paid by any competent authority under this act, shall be deemed a breach of the conditions of such bond, and the amount of damages to be assessed in such case shall be the sum which was so ordered to be paid, and which was withheld up to the time of the commencement of such suit, with interest thereon; for any breaches of such bond which shall happen after the recovery of any damages or the commencement of any suit, a scire facias may issue, upon which the damages shall be assessed from time to time in manner aforesaid; and all moneys which shall be collected on such bond shall be paid to such township or townships as may have incurred or been put to expense in supporting said bastard or its mother during her confinement, or from costs therefrom arising; and the provisions of this section shall be applicable in all respects to all bonds heretofore taken, to perform any order of filiation, in the conditions of which bonds breaches may have happened or shall hereafter happen. (P. L. 1898, p. 965.)

SEC. 19. *Remedy to township where bastard legally settled.*—If, after any order of filiation or sustenance shall have been made by force of this act, the said bastard or it said mother, or both, may be removed to the place of their legal settlement, the township wherein such legal settlement shall be, shall be entitled to the benefit of said order of filiation and sustenance, and of the bond given in the proceedings connected therewith; and shall have the same remedies therein as the township at whose instance the original proceedings were taken. (P. L. 1898, p. 965.)

V. GENERAL PROVISIONS.

SEC. 20. *Court may discharge father if indigent.*—Whenever any person shall be committed to prison on conviction of being the father of a bastard, or a child likely to be born a bastard, it shall be the duty of the court of quarter sessions of the county in which such person is in jail, to inquire from time to time into the circumstances and ability of such father to procure sureties to be bound with him; and if the court shall at any time be satisfied that such father is wholly unable to support such child, or to contribute to its support, or to procure sureties, the said court may, in its discretion, order such father to be discharged from such imprisonment. (P. L. 1898, p. 966.)

SEC. 21. *Mother may be compelled to disclose name of father.*—In making the examination hereby authorized, or at the trial, the mother of such bastard or the woman pregnant with such child may be compelled to testify and disclose the name of the father of such bastard or child likely to be born a bastard, and in case of her refusal the said magistrate or said court of quarter sessions may, after she is sufficiently recovered from her confinement, commit her to the common jail of the county as and for a contempt of court. (P. L. 1898, p. 966.)

SEC. 22. *Proceedings against property of absconding parents.*—In case the putative father or the mother of any bastard child shall run out of the township or out of the county, and leave the said bastard child a charge upon the township where it was born or legally settled, although such putative father or mother have estate sufficient to support such child, and to discharge the township, it shall and may be lawful for the overseer of the poor of such township where any bastard child shall be born or settled, to apply to any magistrate in the county where the estate, real or personal, or any part thereof, of such putative father or the mother may be, and by warrant or warrants, under the hand and seal of said magistrate, who is hereby authorized and required to issue the same, to seize and take the goods and chattels, and to let out and receive the annual rents and profits of the lands and tenements of such putative father or the mother, so absconding as aforesaid, for and towards the sustenance, bringing up, and education of such bastard child, so left as aforesaid; and as soon as the said seizure shall be allowed of and confirmed by the court of quarter sessions, it shall and may be lawful for the overseer of the poor of such township, from time to time, and as often as the case may require, to sell and dispose of so much of the said goods and chattels at public vendue, to the highest bidder, and to receive the said rents and profits, or so much thereof as shall be ordered by the said court of quarter sessions, and to apply the money arising therefrom towards the sustenance, bringing up and education of such bastard child so left as aforesaid, and the said overseers of the poor shall be accountable to the court of quarter sessions for all such sum or sums of money as shall or may arise by every such sale or sales, or be by them received for the rents and profits of such lands or tenements. (P. L. 1898, p. 966.)

SEC. 23. *Bastard born in poorhouse.*—Whenever a bastard shall be born in any of the poorhouses of this State, or shall be removed thereto, before any proceedings have been had by virtue of this act, proceedings may be had and taken for the better relief of the board of chosen freeholders, or other authority or authorities having the direction and government of such poorhouse, upon the application of any officer of such poorhouse, or of the keeper thereof, in the same manner as by this act may be had and done for the relief of the township in which a bastard is born. (P. L. 1898, p. 967.)

SEC. 24. *Fees and costs.*—Jurymen and witnesses in attendance before said magistrate shall be subject to such fines and punishments for nonattendance, and other offenses, as are established by law in cases of actions before the inferior courts of common pleas; and jurymen shall receive such pay as is allowed to them for like services in the court for the trial of small causes, and witnesses in attendance shall receive such pay as is allowed to them by law in the inferior court of common pleas; and such magistrates and officers shall receive each such fees for their services as are allowed them for like services in courts for the trial of small causes, the losing party to pay all costs of the suit, as in ordinary cases at law; and when proceedings are removed to the court of quarter sessions the same fees and costs shall be allowed as in trials before the common pleas on appeals in civil cases. (P. L. 1898, p. 967.)

SEC. 25. *"Township" defined.*—The term "township," made use of in this act, shall be construed to comprehend city, town corporate, borough, village, precinct and ward respectively. (P. L. 1898, p. 968.)

SEC. 26. *Warrant and arrest on Sunday.*—It shall be lawful for any magistrate on the first day of the week (commonly called Sunday), on proper application and examination, to issue his warrant, or to indorse the warrant of any other magistrate, for the apprehension of any reputed father of a bastard child or a child likely to be born a bastard; and it shall be lawful for any constable or police officer having a warrant issued for the apprehension of any person so charged to arrest such person on the first day of the week (commonly called Sunday) or on any other day. (P. L. 1898, p. 968.)

SEC. 27. *Person arrested may be taken before magistrate, and bond given on Sunday.*—When any such person shall be so arrested it shall be lawful for the constable or police officer to carry such person on the same day before the magistrate issuing or indorsing the warrant, as the case may be, whereupon the usual proceedings as required by this act may be had; and any and all proceedings had and taken on the return of such warrant shall be as legal and valid as if had and taken on any other day of the week; and if a bond be given it shall be of the same force and effect as if given on any other day. (P. L. 1898, p. 968.)

SEC. 28. *In cities, proceedings in police courts.*—In all cities of this State having police courts, criminal courts or a recorder's court, all proceedings that are directed or authorized by this act, shall be had in such courts; and the justice or judge of said courts shall have full power to take action in the matter, and to hear, try and determine the case; and in such cities no justice of the peace shall hereafter have any jurisdiction over cases arising under this act. (P. L. 1898, p. 968.)

SEC. 29. *Fees in cities.*—Where the police justice, judge of a criminal court or recorder in any city is paid a fixed salary out of the city treasury, all fees received by him for his services under this act shall be paid into the city treasury; and when the arrest is made by any police officer of any city receiving a fixed salary out of the city treasury, all fees to which he would be entitled for services under this act shall be paid into the city treasury; such payment into the city treasury of fees as received, shall be made in such manner as the common council, or other governing body, of such city may direct. (P. L. 1898, p. 968.)

SEC. 30. *"Magistrate" defined.*—The word "magistrate," as used in this act, shall be deemed and understood to mean and include all justices of the peace, judges of city criminal courts, police justices, recorders and all other officers having the powers of a committing magistrate. (P. L. 1898, p. 969.)

SEC. 31. *Repealer—Pending proceedings not to abate.*—All acts and parts of acts inconsistent with the provisions of this act are hereby repealed, and no proceeding now pending shall abate by reason of the passage of this act, but every such proceeding shall continue under the provisions of this act. (P. L. 1898, p. 969.)

SEC. 32. *Inquiry into qualifications of surety—Court may order new bond.*—Sec. 1. After any bond has been entered into for the performance of any order of filiation, the overseer of the poor of any township or other municipality upon which the bastard child may be or become chargeable may apply to the court of quarter sessions of the county in which such township or other municipality may lie to inquire into the qualifications of the surety or sureties upon said bond, and said court may, upon such notice as it may deem proper, order a new bond with good and sufficient surety and with a condition similar to the one replaced by it to be given whenever the surety or sureties may have died or shall not then be satisfactory to the court. (P. L. 1904, p. 389.)

SEC. 33. *Replaced bond void except as to arrears—Commitment on failure to give new bond.*—Sec. 2. Upon such new bond being executed to the satisfaction of said court, the bond replaced by it shall no longer secure payments which may thereafter become due, but said old bond shall still be valid as to any arrears of payments up to the time when the new bond is executed; if the putative father shall fail to give said bond so ordered, the said court may in its discretion commit said person to the common jail or the penitentiary of the county, there to remain until he shall comply with said order or be discharged by said court in the manner provided in the act to which this is a supplement. (P. L. 1904, p. 389.)

SEC. 34. *Person discharged for inability, becoming able to secure bond or comply with order—Proceedings—Commitment.*—Sec. 3. Whenever any person shall, on account of inability to secure a bond or comply with the order of filiation, have been discharged from imprisonment and shall have become able to secure such bond or to comply with such order, the said court may, on application of the overseer of the poor of any township or other municipality which may be interested in the order and upon at least three days' written notice to such person, served upon him personally or left at his place of abode, inquire into the circumstances and ability of the putative father, and if it shall appear that such father shall have become able to secure such bond, or to comply with such order of filiation, may in its discretion commit such father to the common jail or penitentiary of the county, there to remain until he shall secure such bond and comply with such order and pay all costs, or be discharged by said court in the manner provided in the act to which this is a supplement. (P. L. 1904, p. 389.)

Laws of 1912, ch. 103 (Supplement 1911-1915, p. 45). A further supplement to an act entitled "An act for the maintenance of bastard children" (revision of 1898).

SEC. 1. All bonds entered into for the appearance of the party charged before the magistrate or court on any bastardy proceedings, or on appeal therefrom, or for the performance of any order of filiation, shall be recorded in the clerk's office of the county in which the proceedings are pending, and upon being so recorded, shall have the force and effect of a recognizance; copies of said bonds duly certified by said clerks under seal of office shall be received as evidence in any court of this State, and be as good and available in law as if the original bonds were then and there produced and proved.

SEC. 2. It shall be the duty of the magistrate or court by whom any such bond shall be taken, to cause the same to be forthwith recorded as above provided, and to require the party offering the same to pay the legal fees for recording the same before accepting such bond.

SEC. 3. Upon satisfactory proof before any court in which the suit or proceedings wherein the said bond has been taken are pending, that the conditions of said bond have been fully complied with, it shall be the duty of the said court to order that the

said bonds shall be discharged of record, and thereupon the same shall be discharged in the book kept by the said county clerk for recording the same.

SEC. 4. The provisions of this act are hereby extended to all such bonds heretofore taken and now in force.

Acts of 1913, ch. 331 (Supplement 1911-1915, p. 501). A supplement to an act entitled "An act concerning minors, their adoption, custody and maintenance" (revision of 1902).

SEC. 1. The mother of an illegitimate child (whether married or single) shall have the exclusive right to its custody and control and the putative father of such child shall have no right of custody, control or access to such child without the mother's consent: *Provided*, That if it is proved that the mother is unfit to have the custody and control of such child, then it shall be lawful for the court of chancery or any other court which may have jurisdiction in the premises to make any order touching the custody or control of such child which might heretofore have been made.

SEC. 2. This act is intended to be declaratory of the existing law upon this subject, and it shall, under no circumstances, be construed as an implication that the rights of such a mother have hitherto been less than as hereinabove defined.

Compiled Statutes, 1910

Poor, p. 4012.

SEC. 4. *Settlements of bastard children*.—Whereas single women with child often remove from the places of their settlement, and are delivered of bastard children in distant townships, whereby such townships are unjustly liable to, and often made chargeable with the support of such bastard children: *Be it therefore enacted*, That all bastard children shall hereafter be deemed, esteemed and taken to be settled in the place of the last legal settlement of the mother of such bastard child or children, any law, usage or custom to the contrary notwithstanding.

Place of settlement and relief of poor person.—Illegitimate children shall follow and have the settlement of their mother at the time of their birth, if she have any within this State. (Supplement 1911-1915, p. 1176. Laws 1911, ch. 196, sec. 9 (d), as amended by Laws 1912, ch. 14.)

Crimes, p. 1734.

SEC. 118. *Concealment of pregnancy and birth*.—Any woman who shall conceal her pregnancy, and shall willingly and of purpose be delivered in secret by herself, of any issue of her body, male or female, which shall by law be a bastard; any woman who shall endeavor privately, by drowning or secret burying, or in any other way, either by herself or the procurement of others, to conceal the death of any such issue of her body, which, if it were born alive, would by law be a bastard, so that it may not come to light, whether it were born alive or not, or whether it were murdered or not, her aiders, abettors, counselors, and procurers, shall be guilty of a misdemeanor. (P. L. 1898, p. 827, as amended by P. L. 1906, p. 95.)

Divorce, p. 2022.

SEC. 1. * * *
Effect of decree on legitimacy of issue.—The decree of nullity of marriage shall not render illegitimate the issue of any marriage so dissolved, except where the marriage is dissolved because either of the parties had another wife or husband living at the time of a second or other marriage. Such marriage shall be deemed void from the beginning, and the issue thereof shall be illegitimate.

Descent, p. 1923.

SEC. 13. *Inheritance to go to the mother of illegitimate person*.—When any illegitimate person shall die seized of any lands, tenements, or hereditaments, in his or her own right, in fee simple, without devising the same in due form of law, and without leaving lawful issue (and leaving a mother), then the inheritance shall go to the mother of the person so seized; and if the mother shall have died before such illegitimate person, then the inheritance shall go to the heirs-at-law of said mother: *Provided, always*, That nothing contained in this act shall be construed or taken to bar or injure the rights or estate of a husband, as a tenant by the courtesy, or a widow's right of dower, or to make void or in any way affect any marriage settlement: *And provided, further*, That nothing herein contained shall be operative or have any

effect in any case or cases wherein any proceedings have been had or taken, or are now pending on behalf of the State, under and by virtue of the law as now existing, to escheat said lands; nor shall this act affect or in any wise impair any title to any land heretofore obtained under and by virtue of any proceedings heretofore had and taken in pursuance of law. (As amended by Laws 1917, ch. 246, sec. 13.)

Supplement 1911-1915, p. 1155. Distribution, p. 3874.

SEC. 169. *Representation of mother by illegitimate children.*—V. If the mother of any illegitimate child or children not embraced within the class mentioned in paragraph VI hereof, shall die without leaving a husband surviving her, and leaving no lawful issue, or the issue of any, then the surplusage of her goods, chattels and personal estate shall be distributed equally to and among such illegitimate child or children.

Distribution of personal estate to illegitimate children.—VI. In any and every case where the father and mother of a child or children heretofore or hereafter born out of lawful wedlock have heretofore entered or shall hereafter enter into the bonds of lawful wedlock, and shall have cohabited or shall cohabit as husband and wife after such marriage, and such child or children shall have resided with, been recognized and treated by such parents as their child or children, then and in every such case every such child shall be entitled to share in the estate of such father and mother equally with the legitimate child or children of such intestate: *Provided, however,* The provisions of this act shall not apply where the estate of such father or mother shall have been distributed before this act shall take effect.

Distribution of estate of illegitimate person.—VII. The whole surplusage of the goods, chattels and personal estate of any illegitimate person who shall die intestate and unmarried, and leaving no lawful issue, or the issue of any, him or her surviving, shall go to and be paid over to the mother of such illegitimate person; and if the mother shall have died before such illegitimate child, the next of kin of the mother shall take in the same manner as though the deceased child had been legitimate. (As amended by Laws 1914, ch. 47, and by Laws 1918, ch. 63.)

Laws of 1915, ch. 173 (Supplement 1911-1915, p. 46). An act to provide for the legitimation of bastard children.

SEC. 1. Any child heretofore or hereafter born out of the bonds of matrimony shall become legitimated whenever the natural parents of such child shall have married the one with the other, or shall hereafter so marry each other, and such child shall have been or shall be recognized and treated by such parents as their child.

SEC. 2. Any such child so legitimated as aforesaid shall be entitled to all the rights and privileges such child would have enjoyed had he been born after any such marriage, the intention of this act being that the status of any such child after such marriage of his natural parents shall be the same as if such child were born within wedlock.

Marriage in criminal charges.—In all cases wherein any person shall be arrested upon a criminal charge, involving an accusation of bastardy, rape, fornication, or of having had carnal knowledge of an unmarried female, and the accused person consents to marry such female, such marriage may be performed immediately, after obtaining a marriage license. (Supplement 1911-1915, p. 928. Laws 1914, ch. 5, sec. 1.)

Abandonment by mother a misdemeanor.—The mother of any minor child or children dependent upon her for necessary care or support who willfully deserts or abandons such child or children shall be deemed guilty of a misdemeanor. (Laws 1916, ch. 45, sec. 1.)

NOTE.—Police justices' jurisdiction in cases of bastardy (Compiled Laws, p. 3981, sec. 35).

NOTE.—Jurisdiction of recorder in cases of bastardy (Compiled Laws, p. 4004, sec. 133).

NOTE ON WORKMEN'S COMPENSATION LAW.—Illegitimate children presumed to be dependent when part of decedent's household at time of his death. (Supplement 1911-1915, p. 1645. Laws 1914, ch. 244.)

NEW MEXICO.

Statutes, 1915.

SECTION 17. An illegitimate child can not be adopted without the consent of its mother, if known or capable of consent.

Adoption.

SEC. 1850. Illegitimate children shall inherit from the mother and the mother from the children; they shall inherit from the father whenever they have been recognized by him as his children, but such recognition must have been general and notorious, or else in writing, and if such recognition be in writing it must have been signed by the reputed father in the presence of at least two competent witnesses and must be such as to show upon its face that it was so signed with the intent of recognizing such children as heirs. (As amended by Laws 1915, ch. 69.)

Inheritance and legitimation.

SEC. 1851. *Illegitimate children—Inheritance by parents.*—Under such circumstances, if the recognition of relationship has been mutual, the father may inherit from his illegitimate children, but in thus inheriting from an illegitimate child, the mother and her heirs take preference of the father and his heirs.

SEC. 1852. *Id.—Legitimized by marriage.*—Illegitimate children become legitimate by the marriage of their parents.

Legitimation.

SEC. 2577. The court of probate shall also have the power to appoint guardians for idiots, and for illegitimate children, and for children whose relations are too poor or otherwise unable to take care of them, or when the father shall have been sentenced to prison for an infamous crime, and in all other cases when it shall appear that a guardian is necessary for the welfare of a minor.

Guardianship

SEC. 3434. *Prohibited marriages—Annulment.*—No marriage between relatives within the prohibited degrees or between or with infants under the prohibited ages, shall be declared void, except by a decree of the district court upon proper proceedings being had therein; and in case of minors, no person who may be over the prohibited age shall be allowed to apply for or obtain a decree of the court declaring such marriage void; but such minor may do so, and in the case of a female, the court may in its discretion grant alimony until she becomes of age or remarries; and all children of marriages so declared void as aforesaid, shall be deemed and held as legitimate, with the right of inheritance from both parents; and also in case of minors, if the parties should live together until they arrive at the age under which marriage is prohibited by the statute, then and in that case, such marriage shall be deemed legal and binding.

Void marriages.

NOTE ON INCESTUOUS MARRIAGES.—The law applies to illegitimate children. (Sec. 3430.)

NOTE ON WORKMEN'S COMPENSATION LAW.—The word "child" includes acknowledged illegitimate children. (Laws 1917, ch. 83, sec. 12k.)

NEW YORK.

Parsons' Code of Civil Procedure, 1918.

SECTION 1745. *Action when former husband or wife was living.*—An action to annul a marriage, upon the ground that the former husband or wife of one of the parties was living, the former marriage being in force, may be maintained by either of the parties during the lifetime of the other, or by the former husband or wife. Where it appears, and the judgment determines, that the subsequent marriage was contracted by at least one of the parties thereto in good faith, and with the full belief that the former husband or wife was dead or that the former marriage had been annulled or dissolved, or without any knowledge on the part of the innocent party of such former marriage, the issue of the subsequent marriage, born or begotten before the final judgment, are deemed for all purposes the legitimate children of the parent who at the time of the marriage was competent to contract, and are entitled to succeed as such, in the same manner as other legitimate children, to the real and personal estate of said parent; and the issue so entitled must be specified in the judgment, and the innocent party must be awarded their custody, and he or she is entitled to appoint a guardian of their persons by will.

This section shall be construed to extend to all cases where the judgment or decree of nullity of such subsequent marriage is rendered after the passage of this act whether such subsequent marriage was contracted before or after the passage hereof.

SEC. 1749. A child of a marriage, which is annulled on the ground of the idiocy or lunacy of one of its parents is deemed, for all purposes, the legitimate child of the parent who is of sound mind. A child of a marriage, which is annulled on the ground that one or both of the parties had not attained the age of legal consent, is deemed, for all purposes, the legitimate child of both parents.

Void marriages.

SEC. 1759. *Divorce*.—Where the action is brought by the wife, the following regulations apply to the proceedings:

Divorce.

1. The legitimacy of any child of the marriage, born or begotten before the commencement of the action, is not affected by the judgment dissolving the marriage.

SEC. 1760. *Id.*—Where the action is brought by the husband, the following regulations apply to the proceedings:

1. The legitimacy of a child born or begotten before the commencement of the offense charged is not affected by a judgment dissolving the marriage; but the legitimacy of any other child of the wife may be determined as one of the issues in the action. In the absence of proof to the contrary, the legitimacy of all the children, begotten before the commencement of the action, must be presumed.

Birdseye Consolidated Laws (2d ed.), 1917.

Vol. 5. Penal Law, ch. 40.

SEC. 1843. *Neglect of duty by superintendent or overseer of the poor*.—The county super-

Support.

intendents of the poor, or any overseer of the poor, whose duty it shall be to provide for the support of any bastard and the sustenance of its mother, who shall neglect to perform such duty, shall be guilty of a misdemeanor, and shall on conviction, be liable to a fine of two hundred and fifty dollars, or to imprisonment not exceeding one year, or by both such fine and imprisonment.

SEC. 2461. *Punishment of woman for concealing birth of issue*.—A woman, who, having

**Concealment of
births and deaths.**

been convicted of endeavoring to conceal the stillbirth of an issue of her body, which, if born alive, would be a bastard, or the death of any such issue under the age of two years, subsequently to such conviction endeavors to conceal any such birth or death, is punishable by imprisonment in a State prison not exceeding five years, and not less than two years.

Vol. 4. Judiciary Law, ch. 30.

SEC. 4. *Sittings of courts to be public*.—The sittings of every court within this State

**Illegitimacy pro-
ceedings.**

shall be public, and every citizen may freely attend the same; except that in all proceedings and trials in cases for divorce, on account of adultery, seduction, abortion, rape, assault with intent to commit rape, criminal conversation, and bastardy, the court may, in its discretion, exclude therefrom all persons who are not directly interested therein, excepting jurors, witnesses, and officers of the court.

NOTE ON INCESTUOUS MARRIAGES.—The law applies to illegitimate relatives. (Vol. 2. Domestic relations law, ch. 14, sec. 5.)

NOTE ON BIRTH REGISTRATION.—Certificate states whether legitimate or illegitimate; also: "full name of father." (Vol. 6. Public health law, ch. 45, sec. 383.)

NOTE ON WORKMEN'S COMPENSATION ACT.—"Child" includes an acknowledged illegitimate child dependent upon the deceased. (Vol. 8. Workmen's compensation law, ch. 67, sec. 333 (11).)

Bender's Penal Law and Code of Criminal Procedure, 1913.

Proceedings before magistrates respecting bastards.

SEC. 838. *Definition*.—A bastard is a child who is begotten and born,

Definition.

1. Out of lawful matrimony;

2. While the husband of its mother was separate from her for a whole year previous to its birth; or

3. During the separation of its mother from her husband pursuant to a judgment of a competent court.

SEC. 839. *Who are liable for its support*.—The father and mother of a bastard are liable for its support. In case of their neglect or inability, it must be supported by the county, city or town chargeable therewith under the

Support.

provisions of the poor law.

SEC. 840. *Application to inquire into the facts*.—If a woman be delivered of a bastard,

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ceedings.**

or be pregnant of a child likely to be born such, and which is chargeable to a county, city or town, a superintendent of the poor of the county, or an overseer of the poor or other officer of the almshouse of the town or city where the woman is, must apply to a justice of the peace or police justice in the county to inquire into the facts of the case.

SEC. 841. *Examination by the magistrate and warrant against the father*.—The magistrate must, by the examination of the woman on oath, and any other testimony which may be offered, ascertain the father of the bastard, and must issue his warrant, directed

to a peace officer of the county, commanding him, without delay, to apprehend the father and bring him before the justice, for the purpose of having an adjudication as to the filiation of the bastard.

SEC. 842. *Designation of justice and person arrested.*—An officer issuing a warrant or making an examination, as provided in this chapter, is designated as a magistrate, and the person against whom the warrant is issued as the defendant.

SEC. 843. *Proceedings when defendant resides in another county.*—If the defendant reside in another county than that in which the warrant issued, the magistrate must, by an indorsement thereon, direct the sum in which the defendant shall give security, and the officer must deliver the warrant to a justice of the peace or police justice in the city or town in which the defendant resides or is found. The magistrate to whom it is presented, on proof, under oath, of the signature of the magistrate who issued the warrant, must then indorse a direction thereon, that it be served in the county in which he resides, and the defendant may be arrested in that county accordingly. Upon this proof, the magistrate indorsing the warrant is exempted from liability to a civil or criminal action, though it afterwards appear that the warrant was illegally or improperly issued.

SEC. 844. *Undertaking upon arrest.*—When the defendant is arrested in another county, he must be taken before the magistrate who indorsed the warrant, or before another magistrate of the same city or county, who may take from the defendant an undertaking, with sufficient sureties, to the effect:

1. That he will indemnify the county, and town or city, where the bastard was or is likely to be born, and every other county, town or city, against any expense for the support of the bastard, or of its mother during her confinement and recovery, and to pay the costs of arresting the defendant, and of any order of filiation that may be made, or that the sureties will pay the sum indorsed on the warrant; or

2. That the defendant will appear and answer the charge at the next county court of the county where the warrant was issued, and obey its order thereon.

SEC. 845. *Same; when returned; defendant to be discharged.*—When either of the undertakings mentioned in the last section is given, the magistrate must discharge the defendant, and must indorse a certificate of the discharge upon the warrant. He must also deliver the warrant, with the undertaking, to the officer, who must return it to the magistrate granting the warrant, by whom the same proceedings must be had, as if he had taken the undertaking.

SEC. 846. *If undertaking not given.*—If the defendant do not give security, as provided in section 844, the officer must take him before the magistrate who issued the warrant.

SEC. 847. *When magistrate issuing warrant is unable to act.*—If, however, the magistrate who issued the warrant be absent or unable to act, the defendant must be taken before the nearest or most accessible magistrate in the same county. The officer must, at the same time, deliver to the magistrate the warrant, with his return indorsed and subscribed by him.

SEC. 848. *Inquiry to be made by magistrate and associate.*—The magistrate before whom the defendant is brought, as provided in the last two sections, must immediately associate with himself another justice of the peace or police justice in the same county or city; and the two magistrates thus associated, must inquire into the charge, and must examine on oath, the woman who is the mother of or pregnant with the bastard in the presence of the defendant, in respect to the charge, and hear any testimony which may be offered in relation thereto.

SEC. 849. *When adjournment granted; security.*—The magistrates may, on the application of the defendant, for good cause, adjourn the examination, not exceeding thirty days, upon the defendant giving an undertaking, with two sufficient sureties, to the effect that he will appear before the magistrates at the time appointed, or that the sureties will pay the sum mentioned therein, which must be fixed by the magistrates, and which must be a full indemnity for the expense of supporting the bastard and its mother, as provided in section 851. Until the determination by the magistrates, if not admitted to bail, the defendant must be detained in custody of an officer or be committed to the common jail for detention in the same manner as a prisoner arrested in a civil cause.

SEC. 850. *Hearing, decision and order.*—Upon the hearing the magistrates must determine who is the father of the bastard, and must proceed as follows:

1. If they determine that the defendant is not the father of the bastard, he must be forthwith discharged;

2. If they determine that he is the father, they must make an order of filiation, specifying therein the sum to be paid weekly or otherwise by the defendant, for the support of the bastard; and if the mother be indigent, the sum to be paid by the defendant for her support, during her confinement and recovery; and in case said bastard shall die, that the defendant will pay the necessary funeral expenses.

3. They must certify the reasonable costs of arresting the defendant, and of the order of filiation;

4. They must reduce their proceedings to writing, and subscribe them.

SEC. 851. *Defendant to pay costs, and give undertaking for support, or for appearance at the county court.*—If the defendant be adjudged to be the father, he must immediately pay the amount certified for the costs of the arrest and of the order of filiation, and enter into an undertaking, with sufficient sureties approved by the magistrates, to the effect,

1. That he will pay weekly or otherwise, as may have been ordered, the sum directed for the support of the child, and of the mother during her confinement and recovery, or which may be ordered by the county court of the county; and that he will indemnify the county, and town or city where the bastard was or may be born (as the case may be), and every other county, town or city, which may have been or may be put to expense for the support of the bastard, or of its mother during her confinement and recovery, against those expenses, or that the sureties will do so, not exceeding the sum mentioned in the undertaking, and which must be fixed by the magistrates; or,

2. That he will appear at the next term of the county court of the county, to answer the charge and obey its order thereon, or that the sureties will pay a sum equal to a full indemnity for supporting the bastard and its mother, as provided in the first subdivision of section 844.

SEC. 852. *On giving undertaking, defendant to be discharged; otherwise, to be committed.*—Upon a compliance with the provisions of the last section, the magistrates must discharge the defendant; but otherwise, they or either of them must, by warrant, commit him to the county jail, or in the City of New York, to the city prison of that city, until he be discharged by the county court of the county, or deliver an undertaking, as prescribed by the last section.

SEC. 853. *Examination and commitment of defendant.*—During the examination, and until the defendant is discharged by the magistrate, he must remain in the custody of the officer who arrested him, unless an undertaking have been given for his appearance, as provided in sections 844 and 849; and when committed to prison he must be actually confined therein.

SEC. 854. *Proceedings on return of security given out of the county.*—When security taken out of the county, for the appearance of the defendant at the county court, as provided in section 844, is returned to the magistrate who issued the warrant, he must associate with himself another magistrate of the same county, and the magistrates thus associated must proceed as provided in sections 848 to 850 both, inclusive.

SEC. 855. *Examination, and order thereon.*—The examination may be had and the order of affiliation made in the absence of the defendant, unless, before the order is made, he require of the magistrate issuing the warrant that the examination be had in his presence, in which case the examination must be had as if the defendant had originally appeared.

SEC. 856. *How mother compelled to disclose name of father.*—In making an examination authorized by this chapter, the magistrate issuing the warrant, or the magistrates making the examination, may compel the mother of a bastard, chargeable to a county, city or town, or a woman pregnant of a child likely to be born such, to disclose the name of the father of the bastard; or if she refuse to do so, may, by a warrant setting forth the cause thereof, at the expiration of one month from her delivery, if sufficiently recovered, commit her to the county jail, or, in the City of New York, to the city prison of that city, until she disclose the name of the father.

SEC. 857. *If mother possess property, she may be ordered to support the child.*—If the mother of a bastard, chargeable, or likely to become chargeable, as provided in section 840, be possessed of property in her own right, any two magistrates of the county or city where she is, on the application of any of the officers mentioned in that section, must examine into the matter, and may make an order charging the mother with the payment of money weekly, or otherwise, for the support of the bastard.

SEC. 858. *If she do not comply she must be committed, or discharged on undertaking.*—If, after service of the order upon the mother, she do not comply therewith, she must be committed to the county jail, or in the City of New York, to the city prison of that city, until she comply or enter into an undertaking, with sufficient sureties approved by the magistrates, to the effect that she will appear at the next term of the county court of the county, to answer the matters stated in the order, and obey its order thereon, or that the sureties will pay the sum mentioned in the undertaking, and which must be fixed by the magistrates.

SEC. 859. *Magistrates may reduce amount directed to be paid by the father or mother—County court may reduce or increase it.*—The magistrates, who may have made an order against the father or mother of a bastard, as provided in sections 850 and 857, may, from time to time, for good cause, reduce the amount therein directed to be paid, and

upon the application of any of the officers mentioned in section 840, the county court of the county, upon ten days' notice to those officers or to the father and mother of the bastard, may reduce or increase the amount so directed to be paid.

SEC. 860. *Proceedings against absconding father or mother.*—If the father or mother of a bastard, or of a child likely to be born such, abscond from their place of residence, leaving the bastard chargeable, or likely to become chargeable to the public, a superintendent of the poor of the county, or an overseer of the poor or other officer of the almshouse of the town or city where the bastard was born, or is likely to be born, may apply to any two magistrates of the city or county where any property, real or personal, of the father or mother may be, for authority to take the same. Upon due proof of the facts on oath, to the satisfaction of the magistrates, they must issue their warrant, and proceed thereon in the manner provided in Title VIII of this part, in relation to persons absconding and leaving their children chargeable to the public.

Appeals from the orders of magistrates respecting bastards.

SEC. 861. *Who may appeal, and in what cases.*—A person deeming himself aggrieved by the order of two magistrates, made pursuant to the last chapter [secs. 838–860], may appeal therefrom to the next term of the county court of the county; except that a person who has executed an undertaking to obey an order of filiation, and indemnify the public, as provided in section 851, can not appeal from any other part of the order mentioned in section 850, than that which fixes the weekly or other allowance to be paid.

SEC. 862. *Appeal; how taken.*—When the father or mother of the bastard has entered into an undertaking for appearance at the next term of the county court of the county, as provided in sections 851 and 858, it is an appeal from the order of filiation or maintenance; and no other notice thereof is necessary. In any other case, the appeal is taken, by a written notice of at least ten days before the court, to the magistrates who made the order, and to the party affected thereby, or to the officer at whose instance it was obtained.

SEC. 863. *Papers to be transmitted by magistrates to county court.*—The magistrates receiving an undertaking for appearance at the county court, must transmit it to the court, before its opening, with a certified copy of the order appealed from.

SEC. 864. *Hearing—Evidence.*—The court must immediately, or at any other time it may appoint, proceed to hear the allegations and proofs of the parties; and the party in whose favor the order was made, must support it by evidence. If the mother of the bastard is dead or insane, her testimony on the examination before the magistrate is receivable in evidence.

SEC. 865. *Powers of court—Undertaking on adjournment, when to be given.*—The court may affirm or vacate an order of filiation or maintenance, or may reduce or increase the sum ordered to be paid for the support of the bastard or its mother; and, disregarding defects in form in the order, must amend it according to the fact. If, when the appeal is heard, the bastard be not born, the court may adjourn the hearing until it be born, and in that case, must take an undertaking from the party appealing, for his appearance, in such sum and with such sureties as the court may deem sufficient.

SEC. 866. *In what cases defendant to be discharged.*—If the woman alleged to be pregnant, be not so, or be married before her delivery, or the child be not born alive, the defendant must be discharged from custody or from the obligation of his undertaking, either by the court or magistrates, upon that fact being made to appear.

SEC. 867. *Order of the court on affirmance.*—If, upon the hearing of the appeal, the county court affirm an order of filiation or maintenance, it must require the defendant to enter into an undertaking, with sufficient sureties approved by the court, to the effect that he will pay, weekly or otherwise, according to the order as made by the magistrate or modified by the court, the sum directed for the support of the bastard, and of the mother during her confinement and recovery; and that he will indemnify the county, and town or city where the bastard was or may be born (as the case may be), and every other county, town or city, which may have been put to expense for the support of the child or of its mother during her confinement and recovery against those expenses, or that the sureties will do so, not exceeding the sum mentioned in the undertaking, and which must be fixed by the court.

SEC. 868. *Commitment of defendant, if he fail to give undertaking.*—If, on judgment of affirmance, the defendant do not enter into an undertaking, as provided in the last section, he must be committed to the county jail, or in the City of New York, to the city prison of that city, until he do so, or be discharged by the court.

SEC. 869. *Undertaking for appearance on appeal; when forfeited.*—The undertaking for the appearance of the defendant at the county court, upon an appeal, is forfeited by his neglect to appear, or to give the undertaking mentioned in the last two sections, unless he be discharged by the court.

SEC. 870. *When mother bound to appear at the county court, to proceed as upon an appeal.*—When the mother of a bastard is bound to appear at the county court, or is committed as provided in section 858, the court must proceed in respect to the matter in the same manner as upon an appeal.

SEC. 871. *When the court may make an order against the mother for the support of the bastard.*—If the court be satisfied that the mother has property in her own right, sufficient to enable her to support the bastard or contribute to its support, it must confirm the order mentioned in section 857, or may vary the sum ordered to be paid weekly or otherwise; or if not, it must discharge her from custody or from the obligation of her undertaking.

SEC. 872. *Proceedings against the mother, on affirmance or modification of such order.*—If the court affirm or modify the order, as provided in the last section, it must require the defendant to enter into an undertaking, with sufficient sureties approved by the court, to the effect that she will pay, weekly or otherwise, according to the order, as made by the magistrates or modified by the court, the sum directed for the support of the bastard, or that the sureties will do so, not exceeding the sum mentioned in the undertaking, and which must be fixed by the court. If the undertaking be not given she must be committed in the manner provided in section 868.

SEC. 873. *Costs on appeal.*—The court must award costs to the party in whose favor an appeal is determined. When awarded against county superintendents or overseers of the poor of a town, not liable for the support of its own poor, they must be paid by the county treasurer, on delivering to him a certified copy of the order and of the taxed costs, and must be charged by him to the town in the same county, liable to support the bastard, or if there be none, to the county. In the City of New York, when costs are awarded upon an appeal, to the person charged as the father or mother of the bastard, they must, upon the production of similar vouchers, be paid by the comptroller of that city, and charged to the appropriation made to the commissioners of charities and corrections thereof.

SEC. 874. *Payment of costs; how enforced.*—In other cases, the payment of the costs may be enforced by the court, as in a civil action. If the party against whom they are awarded, reside out of the jurisdiction of the court, an action may be brought on the order, by the party entitled to the costs, in which the production of a certified copy of the order and of the taxed costs is conclusive evidence.

SEC. 875. *When court may make a new order of filiation, or bind the defendant to appear.*—If the court vacate an order of filiation for any other cause than upon the merits, it must proceed, and may make an original order of filiation, in the manner prescribed in the second subdivision of section 850, or bind the person charged in an undertaking, in a sum and with sureties approved by the court, to appear at the next term of the county court.

SEC. 876. *If order of filiation be vacated, except on the merits, magistrate may proceed anew.*—If the order be vacated for any other cause than on the merits, and the person charged be bound as provided in the last section, the same proceedings may be had by the magistrate for the apprehension of the defendant, and for making an order of filiation, and for the commitment of the defendant for not giving an undertaking, as are authorized in the first instance. And the same proceedings must be subsequently had in all respects.

SEC. 877. *Court to inquire into circumstances of father or mother committed for not giving undertaking.*—When a person is committed to prison, charged as the father of a bastard, or of a child likely to be born a bastard, and when the mother of a bastard is so committed for not giving an undertaking to support the bastard, or to indemnify the public, the court must inquire, from time to time, into the circumstances and ability of the father or mother to support the bastard and to procure security therefor.

SEC. 878. *Father or mother unable to support the bastard may be discharged.*—If the court be at any time satisfied that the father or mother is wholly unable to support the bastard, or to contribute to its support, or to procure security therefor, it may, in its discretion, order the father or mother to be discharged from imprisonment; but if it shall thereafter at any time appear to the satisfaction of the court of general sessions of the County of New York, or to the county court of any other county, that the defendant has become and is able to contribute to the support of the bastard, and fails so to do, the court may revoke and vacate the aforesaid order discharging the defendant from arrest, and may order him to be rearrested and may require him to give a new undertaking in the manner provided in subdivision 1 of section 851 of the code of criminal procedure, and upon his failure to give such undertaking shall commit him to jail in the manner provided in section 852 of the code of criminal procedure.

SEC. 879. *Notice before discharge.*—Before granting the order the court must be satisfied that reasonable notice has been given to the overseers of the poor, or to the county superintendents or chief officers of the almshouse, at whose instance the party

was committed, of the intention to apply for a discharge, and must hear the allegations and proofs of the superintendents, overseers or officers, and may examine the party applying on oath respecting the subject of the application.

SEC. 880. *Party can not be discharged but by the court.*—A person committed, as provided in section 877, can not be discharged from imprisonment, except by the county court of the county.

Enforcement of undertaking for support, or appearance on appeal.

SEC. 881. *Court may order prosecution of undertaking, when forfeited; by whom prosecuted.*—If an undertaking for the appearance at the county court, of a person charged as the father or mother of a bastard, be forfeited, the court may order it to be prosecuted; and the sum mentioned therein may be recovered, and when collected, must, except in the City of New York, be paid to the county treasurer, and by him credited to the town in the same county, liable to the support of the bastard, or if there be none, to the county. In the City of New York, the court must order the undertaking to be prosecuted by the commissioners of charities and corrections, and when collected, it must be paid into the city treasury. In every other county, it must be prosecuted by the district attorney.

SEC. 882. *In whose name to be prosecuted.*—When an undertaking to obey an order, in relation to the support of a bastard, or of a child likely to be born a bastard, or of its mother, is forfeited, it may be prosecuted in the name of the county superintendents of the county or the overseers of the poor of the town, which was liable for the support of the bastard, or which may have incurred any expense in the support of the bastard, or of its mother, during her confinement and recovery; or in the City of New York, in the name of the corporation of that city.

SEC. 883. *Evidence in the action, and measure of damages.*—In the action mentioned in the last section, it is not necessary to prove the actual payment of money by a county superintendent, overseer of the poor, officer of an almshouse, or other person; but the neglect to pay a sum ordered to be paid by competent authority, for the support of the bastard, or of its mother, is a breach of the undertaking, and the measure of the damages is the sum ordered to be paid, and which was withheld at the time of the commencement of the action, with interest thereon.

SEC. 884. *When new action may be brought; disposal of proceeds.*—For a breach of the undertaking, after the recovery of damages or the commencement of an action, another action may, in the same manner, be brought. The money collected upon the undertaking must be paid, and credited, in the manner provided in section 881.

SEC. 885. *Costs against plaintiff, how recovered.*—If, in the action, costs be awarded against the plaintiffs, they may be recovered, as follows:

1. If against the corporation of the city of New York, in the same manner as in any other action;
2. If against county superintendents or overseers of the poor, they must, upon the delivery of a transcript of the judgment, be paid by the county treasurer, and by him charged to the town in the same county, liable for the support of the bastard, or if there be none, to the county.

SEC. 886. *When action maintainable on order for support.*—An action may be maintained by the parties authorized by section 882, upon an order made by two magistrates, or by a county court, for the payment of a sum weekly or otherwise, for the support of the bastard or its mother, notwithstanding an undertaking may have been given to comply with the order; and in case of the death of the person against whom the order was made, an action may be maintained thereon against his executors or administrators. But when an undertaking is given to appear at the next term of the county court, no action can be brought on the order until it is affirmed by the court.

Birdseye Consolidated Laws (2d ed.), 1917.

Vol. 6. Poor Law, ch. 42. Support of bastards.

SEC. 60. *Penalty for removing mother of bastard; how supported after removal.*—If the mother of any bastard, or of any child likely to be born a bastard, **Support by cities, towns, and counties,** shall be removed, brought or enticed into any county, city or town **and by father.** from any other county, city or town of this State, for the purpose of avoiding the charge of such bastard or child upon the county, city or town from which she shall have been brought or enticed to remove, the same penalties shall be imposed on every such person so bringing, removing or enticing such mother to remove, as are provided in the case of the fraudulent removal of a poor person. Such mother, if unable to support herself, shall be supported during her confinement and recovery therefrom, and her child shall be supported, by the county superintendents of the poor of the county where she shall be, if no provision be made by the father of such child.

SEC. 61. *Mother and child poor persons; proceedings against county or town from which she was removed.*—Such mother and her child shall, in all respects, be deemed poor persons; and the same proceedings may be had by the county superintendents to charge the town, city or county from which she was removed or enticed, or shall have of her own accord come or strayed, for the expense of supporting her and her child, as are provided in the case of poor persons; and an action may be maintained in the same manner for said expenses and for all expenses properly incurred in apprehending the father of such child, or in seeking to compel its support by such father or its mother.

SEC. 62. *Mother and bastard; how to be supported.*—The mother of every bastard, who shall be unable to support herself, during her confinement and recovery therefrom, and every bastard, after it is born, shall be supported as other poor persons are required to be supported by the provisions of this chapter, at the expense of the city or town where such bastard shall be born, if the mother have a legal settlement in such city or town, and if it be required to support its own poor; if the mother have a settlement in any other city or town of the same county, which is required to support its own poor, then at the expense of such other city or town; in all other cases, they shall be supported at the expense of the county where such bastard shall be born.

SEC. 63. *Mother and child not to be removed without her consent.*—The mother and her child shall not be removed from any city or town to any other city or town in the same county nor from one county to any other county, in any case whatever, unless voluntarily taken to the county, city or town liable for their support, by the county superintendents of such county or the overseers of the poor of such city or town.

SEC. 64. *Overseers to notify superintendents of cases of bastardy; when county chargeable.*—The overseers of the poor of any city or town where a woman shall be pregnant with a child, likely to be born a bastard, or where a bastard shall be born, which child or bastard shall be chargeable, or likely to become chargeable to the county, shall, immediately on receiving information of such fact, give notice thereof to the county superintendents, or one of them.

SEC. 65. *Duty of superintendents to provide for mother and child.*—The county superintendents shall provide for the support of such bastard and its mother, in the same manner as for the poor of such county.

SEC. 66. *Until taken charge of by superintendents, to be supported by overseers.*—Until the county superintendents take charge of and provide for the support of such bastard and its mother so chargeable to the county, the overseers of the poor of the city or town shall maintain and provide for them; and for that purpose, the same proceedings shall be had as for the support of a poor person chargeable to the county, who can not be conveniently removed to the county almshouse.

SEC. 67. *Overseers of towns to support bastard and mother, whether chargeable or not.*—Where a woman shall be pregnant with a child likely to be born a bastard, or to become chargeable to a city or town, or where a bastard shall be born chargeable, or likely to become chargeable to a city or town, the overseers of the poor of the city or town where such bastard shall be born, or likely to be born, whether the mother have a legal settlement therein or not, shall provide for the support of such child and the sustenance of its mother during her confinement and recovery therefrom, in the same manner as they are authorized by this chapter to provide for and support the poor of their city or town.

SEC. 68. *Moneys received by overseers from parents of bastard; how applied and accounted for.*—Where any money shall be paid to any overseer, pursuant to the order of any two justices, by any putative father, or by the mother of any bastard, the overseers may expend the same directly, in the support of such child, and the sustenance of its mother as aforesaid, without paying the same into the county treasury. They shall annually account, on oath, to the board of town auditors, or to the proper auditing board of a city, at the same time that other town or city officers are required to account for expenditures of all moneys so received by them, and shall pay over the balance in their hands, and under like penalties, as are provided by this chapter, in respect to the poor moneys in their hands.

SEC. 69. *When moneys received on account of bastard chargeable to county; how to be disposed of.*—All moneys which shall be ordered to be paid by the putative father, or by the mother of a bastard chargeable to any county, shall be collected for the benefit of such county; and all overseers of the poor, superintendents, sheriffs, and other officers, shall within fifteen days after the receipt of any such moneys, pay the same into the county treasury. Any officer neglecting to make such payment shall be liable to an action by and in the name of the county, for all moneys so received and withheld, with interest from the time of receipt, at the rate of ten per centum; and shall forfeit a sum equal to that so withheld, to be sued for and recovered by and in the name of the county.

SEC. 70. *Disputes concerning settlement of bastards; how determined.*—When a dispute shall arise concerning the legal settlement of the mother of a bastard,

or of a child born or likely to be born a bastard, in any city or town, the same shall be determined by the county superintendents of the poor, upon a hearing of the parties interested, in the same manner and with the same effect as they are authorized to determine the settlement of a poor person under this chapter.

SEC. 71. *Proceedings when bastard is chargeable to another town.*—When a bastard shall be born, or be likely to be born in a town or city, when the legal settlement of the mother is in another town or city of the same county, which is required by law to support its own poor, the overseers of the poor of the town or city where such bastard shall be born, or be likely to be born, shall give the like notice to the overseers of the town or city where the mother's settlement may be, as is required in the case of a person becoming a poor person, under the like circumstances, and the same proceedings shall be had, in all respects, to determine the liability of such town or city as in the case of poor persons.

The overseers of the town or city to which the mother of such bastard belongs may, before the confinement of such mother, or at any time after the expiration of two months after her delivery, if her situation will permit it, take and support such mother and her child.

If they omit to do so, and fail to obtain the determination of the county superintendents in their favor on the question of settlement, the town or city to which the mother belongs shall be liable to pay all the expenses of the support of such bastard, and of its mother during her confinement and recovery therefrom; which expenses, after being allowed by the county superintendents, shall be assessed, together with the lawful interest on the moneys expended, on the town or city to which such mother belongs, and shall be collected in the same manner as provided for poor persons supported under the same circumstances, and the moneys so collected shall be paid to the county treasurer, for the benefit of, and to be credited to, the town which incurred such expenses.

SEC. 72. *Mode of ascertaining sum to be allowed for support of bastard.*—When any town is required to support a bastard, and its mother, whether the mother have a settlement in such town or not, and no moneys shall be received from the putative father or from the mother, to defray the expense of such support, the overseers of the poor shall apply to the supervisor of the town and obtain an order for the support of such bastard, and the sustenance of its mother during her confinement and recovery therefrom, and the sum to be allowed therefor, in the same manner as is required in the case of poor persons, and the moneys paid or contracted to be paid by the overseer, pursuant to such order, shall be paid by the county treasurer in the same manner as for poor persons, and be charged to the town to whose officers such payment shall be made.

SEC. 73. *When mother and child to be removed to county almshouse.*—If there be a county almshouse in any county where the towns are required to support their own poor, the overseers of the poor of a town where a bastard shall be born, or shall be likely to be born, may, with the approval of the county superintendents or any two of them, and when the situation of the mother will allow it, remove the mother of such bastard, with her child, to such almshouse, in the same manner as poor persons may be removed; the expenses of which removal shall be defrayed in like manner, and such mother and her child shall be considered as poor of the town so liable for their support, and the expense shall in like manner be estimated and paid.

SEC. 74. *Compromise with father of bastard—When mother may receive money.*—Superintendents and overseers of the poor may make such compromise and arrangements with the putative father of any bastard child within their jurisdiction, relative to the support of such child, as they shall deem equitable and just, and thereupon discharge such putative father from all further liability for the support of such bastard.

Whenever a compromise is made with the putative father of a bastard child, the mother of such child, on giving security for the support of the child, and to indemnify the city and county or the town and county, from the maintenance of the child, to the satisfaction of the officers making the compromise, shall be entitled to receive the moneys paid by such putative father as the consideration of such compromise. If the mother of such child shall be unable to give the security, but shall be able and willing to nurse and take care of the child, she shall be paid the same weekly allowance for nursing and taking care of the child, out of the moneys paid by the father on such compromise, as he shall have been liable to pay by the order of filiation; such weekly sum to be paid the mother, may be prescribed, regulated or reduced, as in the case of an order of filiation.

SEC. 75. *Compromise with putative fathers in New York.*—The commissioners of public charities of the City of New York, or any two of them, may make such compromise and arrangements with the putative fathers of bastard children in said city, relative to the support of such children, as they shall deem equitable and just, and thereupon may discharge such putative fathers from all further liability for the support of such bastards.

Vol. 2. Domestic Relations Law, ch. 14.

SEC. 24. Effect of marriage of parents of illegitimates.—All illegitimate children whose parents have heretofore intermarried or who shall hereafter intermarry shall thereby become legitimized and shall become legitimate for all purposes and entitled to all the rights and privileges of legitimate children; but an estate or interest vested or trust created before the marriage of the parents of such child shall not be divested or affected by reason of such child being legitimized. Nothing in this article shall be deemed or construed to in any manner impair or affect the validity of any lawful marriage contract made before the passage of this article.

SEC. 86. Guardianship of indigent children by incorporated orphan asylums.—The guardianship of the person and the custody of an indigent child may be committed to an incorporated orphan asylum or other institution incorporated for the care of orphan, friendless, or destitute children, by an instrument in writing signed:

3. If the father of such child shall have neglected to provide for his family during the six months next preceding, or if such child is a bastard, by the mother of such child.

SEC. 111. Whose consent necessary for adoption.—Consent to adoption is necessary **Adoption and as follows:**
records.

3. Of the parents or surviving parent of a legitimate child, and of the mother of an illegitimate child; but the consent of a parent who has abandoned the child, or is deprived of civil rights, or divorced because of his or her adultery or cruelty, or adjudged to be insane, or to be an habitual drunkard, or judicially deprived of the custody of the child on account of cruelty or neglect, is unnecessary; * * *

SEC. 113. * * * The fact of illegitimacy shall in no case appear upon the record.

Vol. 2. Decedent Estate Law, ch. 13.

SEC. 89. Illegitimate children.—If an intestate who shall have been illegitimate die without law issue, or illegitimate issue entitled to take, under **Inheritance.** this section, the inheritance shall descend to his mother; if she be dead, to his relatives on her part, as if he had been legitimate. If a woman die without lawful issue, leaving an illegitimate child, the inheritance shall descend to him as if he were legitimate. In any other case illegitimate children or relatives shall not inherit.

SEC. 98. Distribution of personal property of decedent.—If the deceased died intestate, the surplus of his personal property after payment of debts; and if he left a will, such surplus, after the payment of debts and legacies, if not bequeathed, must be distributed to his widow, children, or next of kin, in manner following:

9. If the deceased was illegitimate and leave a mother, and no child, or descendant, or widow, such mother shall take the whole and shall be entitled to letters of administration in exclusion of all other persons. If the mother of such deceased be dead, the relatives of the deceased on the part of the mother shall take in the same manner as if the deceased had been legitimate, and be entitled to letters of administration in the same order.

15. If a woman die, leaving illegitimate children, and no lawful issue, such children inherit her personal property as if legitimate.

NORTH CAROLINA.

Revised Statutes, 1905.¹

SECTION 136. Illegitimate children next of kin to mother.—Every illegitimate child of the mother dying intestate, or the issue of such illegitimate child **Inheritance.** deceased, shall be considered among her next of kin, and as such shall be entitled to a share of her personal estate as prescribed in this chapter.

SEC. 137. Illegitimate children next of kin to each other.—Illegitimate children, born of the same mother, shall be considered legitimate as between themselves and their representatives, and their personal estate shall be distributed in the same manner as if they had been born in lawful wedlock. And in case of the death of any such child or his issue, without leaving issue, his estate shall be distributed among his mother and all such persons as would be his next of kin if all such children had been born in lawful wedlock.

¹ These laws are also contained in Pell's Revisal 1903 and Supplements 1913 and 1915, secs. 136-137, 201, 252-264, 1333, 1559, 1599, 1915-1919, 2033, and 5435b(14).

SEC. 1333. *Legal settlements; how acquired.*—Legal settlements may be acquired in any county, so as to entitle the party to be supported by such county, in the manner following, and not otherwise:

Residence.

4. Illegitimate children shall follow and have the settlement of their mother, at the time of their birth, if she then have any in the State. But neither legitimate nor illegitimate children shall gain a settlement by birth in the county in which they may be born, if neither of their parents had any settlement therein.

SEC. 1569. *Effects of absolute divorce.*—After a judgment of divorce from the bonds of matrimony, all rights arising out of the marriage shall cease and determine, and either party may marry again unless otherwise provided by law: *Provided*, That no judgment of divorce shall render illegitimate any children in esse, or begotten of the body of the wife during coverture.

Divorce.

SEC. 1556. Rule 9. *Illegitimate children inherit from mother.*—Every illegitimate child of the mother and the descendants of any such child deceased shall be considered an heir: *Provided, however*, That where the mother leaves legitimate and illegitimate children such illegitimate child or children shall not be capable of inheriting of such mother any land or interest therein which was conveyed or devised to such mother by the father of the legitimate child or children; but such illegitimate child or descendant shall not be allowed to claim, as representing such mother, any part of the estate of her kindred, either lineal or collateral. (As amended by Laws 1913, ch. 71.)

Inheritance.

SEC. 1556. Rule 10. *Who may take from illegitimate children.*—Illegitimate children shall be considered legitimate as between themselves and their representatives, and their estates shall descend accordingly in the same manner as if they had been born in wedlock. And in case of the death of any such child or his issue without leaving issue, his estate shall descend to such person as would inherit, if all such children had been born in wedlock: *Provided*, That when any illegitimate child shall die without issue, his inheritance shall vest in the mother in the same manner as is provided in rule six of this chapter.

SEC. 252. *Justices have jurisdiction—Warrant issued only on complaint of woman or county commissioner.*—Justices of the peace of the several counties shall have exclusive original jurisdiction to issue, try and determine all proceedings in cases of bastardy in their respective counties. A warrant in bastardy shall be issued only upon the voluntary affidavit and complaint of the mother of the bastard; or, upon the affidavit of one of the county commissioners, setting forth the fact that the bastard is likely to become a county charge.

Illegitimacy proceedings.

SEC. 253. *Procedure on complaint by county commissioner.*—When complaint is made on affidavit by one of the county commissioners, as set forth in the preceding section, to any justice of the peace of the county in which the woman resides, that any single woman within his county is big with child, or delivered of a child, he may cause her to be brought before him, or any other justice of the county, to be examined upon oath respecting the father; and if she shall refuse to declare the father, she shall pay a fine of five dollars and give a bond payable to the State with sufficient surety to keep such child from being chargeable to the county, otherwise she shall be committed to prison until she shall declare the same, or pay the fine aforesaid and give such bond.

SEC. 254. *Procedure when woman declares father.*—If any woman shall, upon oath, accuse any man of being the father of her bastard child, the justice before whom such oath is made shall cause him to be brought before some justice of the peace of such county to answer the charge; and, if he shall, upon oath, deny that he is the father of such child, the justice shall proceed to try the issue of paternity, and if it shall be found that he is the father of the child, or if he shall not deny upon oath that he is the father of the child, then he shall stand charged with the maintenance thereof, as the court may order, and shall give bond, with sufficient surety, payable to the State, to perform said order, and to indemnify the county where such child shall be born from charges for his maintenance and may be committed to prison until he finds surety for the same, and shall be liable for the costs of the issue or proceeding, and from this judgment and finding the affiant, the woman or the defendant may appeal to the next term of the superior court of the county where the trial is to be had de novo.

SEC. 255. *Procedure on appeal.*—Upon the trial of the issue, whether before the justice or at term, the examination of the woman, taken and returned, shall be presumptive evidence against the person accused, subject to be rebutted by other testimony which may be introduced by the defendant; and, if the jury at term shall find that the person accused is the father of the child, then the judge shall make the order for the maintenance and for costs of proceeding, and shall take bond from the defendant and his sureties for the maintenance of the child and to indemnify the county and pay the costs; and, in default thereof, may imprison the defendant.

SEC. 256. *Putative father out of county.*—If the putative father shall escape or be in any other county than that of the justice issuing the warrant, it shall be issued, endorsed, executed and returned as provided in warrants in criminal actions.

SEC. 257. *Upon appeal parties and witnesses recognized.*—When an appeal shall be taken the justice shall recognize the person accused of being the father of the child with sufficient surety for his appearance at the next term of the superior court for the county, and to abide by and perform the order of the court; said justice shall also recognize the woman and other witnesses to appear at said superior court, and shall return to said court the original papers in the proceeding and a transcript of his proceedings as required in other cases of appeal. If the putative father fail to appear, unless for good cause shown, the judge shall direct the issue of paternity to be tried; and if the issue be found against the person accused, he shall order a *capias* or attachment to be issued for the father, and may also enter up judgment against the father and his surety on his recognizance.

SEC. 258. *Case may be continued till birth of child.*—When the judge or justice, as the case may be, trying the issue of paternity, shall deem it proper, he may continue the case until the woman shall be delivered of the child; but when a continuance is granted, the court shall recognize the person accused of being the father of the child with surety for his appearance either at the next term of the court or at a time to be fixed by the justice granting the continuance, which shall be after the delivery of the woman.

SEC. 259. *Fine, allowance and bond.*—When the issue of paternity shall be found against the putative father, or when he admits the paternity, he shall be fined by the judge or justice not exceeding the sum of ten dollars and the court shall make an allowance to the woman not exceeding the sum of fifty dollars, to be paid in such installments as the judge or justice shall see fit, and he shall give bond to indemnify the county as prescribed by law; and in default of such payment he shall be committed to prison.

SEC. 260. *Action barred in three years after birth.*—All examinations upon oath to charge any man with being the father of a bastard child shall be taken within three years next after the birth of the child, and not after.

SEC. 261. *Execution may issue for maintenance.*—When the judge or justice shall charge the father of a bastard child with its maintenance and the father shall neglect to pay the same, then the judge or justice, upon application of the party aggrieved, notice being served on the defendant at least ten days before the return day stated in the notice, or such notice being returned by the sheriff or constable that the defendant is not to be found, may order an execution against the goods, chattels, lands and tenements of the father for such sum as the court shall adjudge sufficient for the maintenance of the bastard child.

SEC. 262. *Putative father when committed or apprenticed.*—In all cases arising under this chapter, when the putative father shall be charged with costs or the payment of money for the support of a bastard child, and such putative father shall, by law, be subject to be committed to prison in default of paying the same, it shall be competent for the court to sentence such putative father to the house of correction for such time, not exceeding twelve months, as the court may deem proper: *Provided*, That such person or putative father, at his discretion, instead of being committed to prison or to the house of correction, may bind himself as an apprentice to any person whom he may select, for such time and at such price as the court may direct. The binding shall be by indenture in open court, and the price obtained shall be paid to the county treasurer. On the indenture being signed by the presiding judge of the court and by the master receiving such apprentice, the person thus bound shall be treated and regarded as an apprentice in all matters except education.

SEC. 263. *Procedure for legitimating bastards.*—The putative father of any illegitimate child may apply by petition in writing to the superior court of the county in which the father may reside, praying that such child may be declared legitimate; and if it shall appear that the petitioner is reputed the father of the child, the court may thereupon declare and pronounce the child legitimated; and the clerk shall record the decree.

SEC. 264. *Effects of legitimation.*—The effect of such legitimation shall extend no further than to impose upon the father all the obligations which fathers owe to their lawful children, and to enable the child to inherit from the father only his real estate, and also to entitle such child to the personal estate of his father, in the same manner as if he had been born in lawful wedlock; and in case of death and intestacy, the real and personal estate of such child shall be transmitted and distributed according to the statute of descents and distribution among those who would be his heirs and next of kin in case he had been born in lawful wedlock.

SEC. 1915. *Who may be discharged from prison.*—The following persons may be discharged from imprisonment upon complying with this chapter:
 Illegitimacy proceedings; discharge of father. 1. Every putative father of a bastard committed for a failure to give bond, or to pay any sum of money ordered to be paid for its maintenance.

SEC. 1916.—*When petition filed; on whom served.*—Every such person, having remained in prison for twenty days, may apply by petition to the court, where the judgment against him was entered, praying to be brought before such court at a time and place to be named in the petition, and to be discharged upon taking the oath herein-after prescribed. The applicant shall cause ten days' notice of the time and place of filing the petition to be served on the sheriff or other officer by whom he was committed. In cases of conviction before a justice of the peace the clerk of the superior court of the county where the convicted person confined for costs is, may administer the oath and discharge the prisoner.

SEC. 1917.—*Warrant issued for prisoner.*—The clerk of the superior court, or justice of the peace before whom such petition is presented, shall forthwith issue a warrant to the sheriff, or keeper of the prison, requiring him to bring the prisoner before the court, at the time and place named for the hearing of the case, which warrant every such sheriff or keeper shall obey.

SEC. 1918.—*Proceeding on application.*—At the hearing of the petition, if the prisoner have no visible estate, and take and subscribe the oath or affirmation prescribed in the succeeding section, the clerk of the superior court, or justice of the peace before whom he is brought, shall administer said oath or affirmation to him, and discharge him from imprisonment; of which an entry shall be made in the docket of the court, and where the proceeding is before a justice of the peace, the justice shall return the petition and orders thereon into the office of the clerk of the superior court to be filed.

SEC. 1918a. *Oath to be taken.*—The oath referred to in the preceding section shall be as follows:

I,, do solemnly swear (or affirm) that I have not the worth of fifty dollars in any worldly substance, in debts, money or otherwise whatsoever, and that I have not at any time since my imprisonment or before, directly or indirectly, sold or assigned, or otherwise disposed of, or made over in trust for myself or my family, any part of my real or personal estate, whereby to have or expect any benefit, or to defraud any of my creditors; so help me, God.

SEC. 1919. *Who may suggest fraud.*—The chairman of the board of commissioners, and every officer interested in the fee bill taxed against such prisoner, may oppose his taking the oath prescribed in the preceeding section, and file particulars of the suggestion in writing, in the court where the same shall stand for trial as prescribed in this chapter in other cases of fraud or concealment.

Laws of 1917, ch. 219.

SEC. 1. *Child held legitimate after marriage.*—Whenever the mother of any bastard child and the reputed father of such child shall intermarry or shall have intermarried at any time after the birth of such child, the said child shall in all respects after such intermarriage be deemed and held to be legitimate and entitled to all the rights in and to the estate, real and personal, of its father and mother that it would have had had it been born in lawful wedlock.

SEC. 2. This act shall take effect from its ratification, and all laws in conflict therewith are hereby repealed.

Laws of 1913, ch. 109.

SEC. 14. *Items of certificate of birth.*—Certificate to contain the following:

(6) Legitimate or illegitimate: *Provided*, That in illegitimate births the word "illegitimate" shall be written across the face of the certificate and all items on the certificate which would in any way reveal the identity of the father, mother, or illegitimate child itself shall be omitted.

(8) Full name of father: *Provided*, That if the child is illegitimate, the name of the putative father shall not be entered without his consent, but the other particulars relating to the putative father (items nine to thirteen) may be entered if known, otherwise as "unknown."

NOTE ON APPRENTICESHIP LAW.—Illegitimates may be bound by mother. (Sec. 201.)

NORTH DAKOTA.

Compiled Laws, 1913.

SECTION 2501. Residence acquired—Married women and children.—Residence may be acquired in any county so as to oblige such county to relieve and support the persons acquiring such residence, in case they are

Residence.

in need of relief, as follows:

3. Illegitimate children shall follow and have the residence of their mother at the time of their birth, if she then has any within the State; but neither legitimate nor illegitimate children shall gain a residence by birth in the place where they were born, unless their parent or parents had a residence therein at the time.

SEC. 4370. Children legitimate.—When a marriage is annulled children begotten before the judgment are legitimate and succeed to the estate of both parents.

Void marriages.

SEC. 4394. Adultery by husband.—When a divorce is granted for the adultery of the husband, the legitimacy of children of the marriage begotten of the wife before the commencement of the action is not

Divorce.

affected.

SEC. 4395. By wife—Legitimacy.—When a divorce is granted for the adultery of the wife the legitimacy of children begotten of her before the commission of the adultery is not affected; but the legitimacy of other children of the wife may be determined by the court upon the evidence in the case. In every such case all children begotten before the commencement of the action are to be presumed legitimate until the contrary is shown.

SEC. 4420. Legitimacy presumed.—All children born in wedlock are presumed

Presumption of legitimacy. to be legitimate.

SEC. 4421. Children born after dissolution of marriage or before wedlock.—All children of a woman who has been married born within ten months after the dissolution of the marriage are presumed to be legitimate children of that marriage. A child born before wedlock becomes legitimate by the subsequent marriage of its parents.

SEC. 4422. Who may dispute presumption.—The presumption of legitimacy can be disputed only by the husband or wife or the descendant of one or both of them. Illegitimacy in such case may be proved like any other fact.

Presumption of legitimacy.

SEC. 4425. The mother of an illegitimate unmarried minor is entitled to its custody, services, and earnings.

Custody.

SEC. 4450. The father of an illegitimate child by publicly acknowledging it as his own, receiving it as such with the consent of his wife if he is married, into his family, and otherwise treating it as if it was a legitimate child, thereby adopts it as such, and such child is thereupon deemed for all purposes legitimate from the time of its birth.

Legitimation.

SEC. 4456. How guardian appointed.—A guardian of the person or estate or of both of a child born, or likely to be born, may be appointed by will or by deed, to take effect upon the death of the parent appointing:

Guardianship.

2. If the child is illegitimate, by the mother.

SEC. 5745. Inheritance by illegitimate child.—Every illegitimate child is an heir of the person who in writing signed in the presence of a competent witness acknowledges himself to be the father of such child; and in all cases is an heir of his mother and inherits his or her estate in whole or in part, as the case may be, in the same manner as if he had been born in lawful wedlock; but he does not represent his father or mother by inheriting any part of the estate of his or her kindred either lineal or collateral, unless before his death his parents shall have intermarried and his father after such marriage acknowledges him as his child or adopts him into his family, in which case such child and all the legitimate children are considered brothers and sisters and on the death of either of them intestate and without issue the others inherit his estate and are heirs, as hereinbefore provided, in like manner as if all the children had been legitimate, saving to the father and mother respectively their rights in the estates of all the children in like manner as if all had been legitimate. The issue of all marriages null in law or dissolved by divorce are legitimate.

Inheritance; legitimation; void marriages and divorce.

SEC. 5746. Inheritance from illegitimate child.—If an illegitimate child who has not been acknowledged or adopted by his father dies intestate without lawful issue, his estate goes to his mother, or in case of her decease, to her heirs at law.

Inheritance.

SEC. 7935. *Presumptions deemed conclusive.*—The following presumptions and Presumption of le- no others are deemed conclusive:
gitimacy.

5. The issue of a wife cohabiting with her husband, who is not impotent, is indisputably presumed to be legitimate.

SEC. 7936. *Denominational presumptions.*—All other presumptions are satisfactory, if uncontradicted. They are denominational disputable presumptions, and may be contradicted by other evidence. The following are of that kind:

31. That a child born in lawful wedlock, there being no divorce from bed and board, is legitimate.

SEC. 9606. *Concealing stillbirth or death of bastard.*—Every woman who endeavors either by herself or by the aid of others to conceal the stillbirth of an issue of her body, which if born alive would be a bastard, or the death of any such issue under the age of two years, is punishable by imprisonment in the county jail not exceeding one year, or by a fine not exceeding one thousand dollars, or both.

Concealment of
births and deaths.

Code of Criminal Procedure, ch. 5. Bastardy proceedings.

SEC. 10483. *Complaint for bastardy—Form.*—Any unmarried woman who is delivered of a bastard child, or is pregnant with a child, which, if Illegitimacy pro- born alive, may be a bastard, may make a complaint in writing ceedings. under oath before a justice of the peace or police magistrate against the person who is the father of such child. Such proceedings must be entitled in the name of the State as plaintiff and against the accused as defendant. The complaint shall be substantially in the following form:

State of North Dakota } ss:
County of

Before, J. P. (or police magistrate.)

The State of North Dakota, plaintiff, against, defendant.
..... being first duly sworn on oath, says: That she is an unmarried woman and was on the day of, 19... delivered of a bastard child (or is pregnant with a child which, if born alive, may be a bastard), begotten by the defendant on or about the day of, 19... at

Wherefore, she asks that a warrant may be issued for the arrest of the defendant, that he may answer to such charge.

Subscribed and sworn to, etc. [R. C., 1905, sec. 9647; R. C., 1895, sec. 7832.]

SEC. 10484. *Warrant issued—Form—Service.*—Upon the filing of the complaint the magistrate shall issue a warrant which, exclusive of the venue and title, shall be in substantially the following form:

The State of North Dakota to any sheriff, constable, marshal or policeman in the county of.....: Complaint on oath having been made to me by that she is an unmarried woman and has been delivered of a bastard child (or is pregnant with a child which, if born alive, may be a bastard), and accusing the defendant with being the father of such child.

You are therefore commanded forthwith to arrest the above-named and unless he gives an undertaking in the sum of dollars, to be approved by the clerk of the district court of the county where arrested, to bring him before me at or in case of my absence or inability to act before the nearest or most accessible magistrate authorized to act in this county.

Dated at, this day of, 19...

Justice of the Peace (or Police Magistrate.)

The officer to whom such warrant is delivered may execute the same in any part of this State by arresting the defendant and taking him before a magistrate as in such warrant directed. The undertaking required by the warrant shall be conditioned for the defendant's appearance as prescribed in section 10486.

SEC. 10485. *How defendant released.*—If the defendant shall at any time after his arrest pay or secure to be paid to the complainant such sum of money as she may agree in writing to receive in full satisfaction and as shall be approved by the board of county commissioners of the county in which she resides and shall execute and give an undertaking with sufficient sureties to be approved by such board to the county in which she resides, conditioned to secure and indemnify such county from all charges for the maintenance of such child and shall also pay all expenses incurred by such county for the support of the mother during her lying-in or of the child and the costs of prosecution, he shall be discharged.

SEC. 10486. *Examination—Undertaking—Commitment.*—Upon the arrest of the defendant, unless he complies with the provisions of section 10485 or gives an undertaking as provided in section 10484, the defendant shall be taken before a magistrate as directed in the warrant of arrest, where he shall be entitled to a preliminary examination upon the charge made in the complaint. The provisions of article 11, chapter 6, of the code of criminal procedure, shall apply to such preliminary examination, except as otherwise provided in this chapter. If from such examination it appears to the magistrate that the complainant is an unmarried woman and has been delivered of a bastard child, or is pregnant with a child which if born alive may be a bastard,

and that there is sufficient cause to believe that such child was begotten by the defendant, the magistrate shall require him to execute and give an undertaking in a sum not less than five hundred dollars and not exceeding one thousand dollars, with sufficient sureties, payable to the State of North Dakota, and conditioned that he will appear at the next term of the district court of such county and from term to term until the final disposition of the proceeding to answer the complaint and abide the judgment and orders of the court therein. If the defendant fails to execute and give such undertaking the magistrate shall make an order committing him as in criminal actions.

SEC. 10487. *How warrant returned—Undertaking.*—The warrant when executed together with any undertaking given by the defendant shall be returned by the officer making the arrest to the magistrate who issued the warrant or his successor in office, and the magistrate shall transmit any undertaking given by the defendant together with a transcript of his proceedings and all other papers in the case, without delay, to the clerk of the district court of the proper county.

SEC. 10488. *Undertaking after commitment.*—Any person imprisoned for failure to give such undertaking may be discharged by giving the same with sufficient sureties at any time after his commitment; such undertaking may be taken and approved by the magistrate before whom such proceeding was had or by the judge of the district court before whom the same is pending.

SEC. 10489. *Proceedings for trial.*—The trial of such proceeding shall, except as herein otherwise provided, be governed by the law regulating civil actions. The clerk shall place such proceedings upon the calendar for trial at the first term of the district court after the papers therein are received by him. No notice of trial and note of issue need be served or filed.

SEC. 10490. *Trial—By court—By jury.*—If the defendant answers, denying the charge, the issue shall be tried by the court, unless a jury is demanded by either party, in which case the issue shall be tried by jury.

SEC. 10491. *Defendant adjudged father—Judgment.*—If the court or jury finds that the defendant is the father of such child, or if the defendant fails to answer the charge, he shall be adjudged the father of such child and the court shall render such judgment as may seem necessary to secure, with the assistance of the mother, the maintenance and education of such child, until such time as the child is likely to be able to support itself, which judgment shall be docketed by the clerk as judgments in civil actions. Such judgment shall direct the person to whom and the times at which any parts of the same shall be paid and shall also require the defendant to secure the payment thereof by an undertaking executed by him with sufficient sureties and in default thereof the defendant shall be committed to jail until discharged according to law. The court may at any time upon the motion of either party, upon ten days' notice to the other party, vacate or modify such judgment as justice may require.

SEC. 10492. *Imprisoned ninety days—Discharge.*—Any person who shall have been so imprisoned ninety days may apply for his discharge from imprisonment in the manner provided in the code of civil procedure for the discharge from imprisonment of persons confined in jail upon executions against the person.

SEC. 10493. *Execution may issue—Exemptions.*—Executions may issue on such judgment whenever any amount is due on the same and shall be executed as an execution on a judgment in a civil action, and no property, except absolute exemptions, shall be exempt from such execution.

SEC. 10494. *Woman failing to prosecute—County commissioners.*—If any woman mentioned in section 10483 fails to prosecute the father of her child and such child is likely to become a public charge, any member of the board of county commissioners of the county where she resides may apply to a justice of the peace or police magistrate of such county, who shall thereupon examine her under oath as to who is the father of such child, the time when and place where such child was begotten and as to such other circumstances as are deemed necessary; the magistrate shall thereupon issue a warrant for the arrest of the person charged with being the father of the child and the same proceedings shall be had thereon and with like effect as in cases of complaint made by the woman.

SEC. 10495. *Prosecution limited.*—No proceedings under this chapter shall be instituted unless commenced within one year after the birth of such child, but no time during which the defendant is not an inhabitant of or usually residing within this State is a part of the time limited for the commencement of such proceeding.

SEC. 10496. *Other provisions applicable.*—The provisions of articles 8 and 9 of chapter 11 of the code of civil procedure relating to exceptions and new trials, and the provisions of chapter 15 of such code relating to appeals are applicable to proceedings under this chapter.

SEC. 10497. *State's attorney must prosecute.*—The several State's attorneys within their respective counties shall prosecute all proceedings under this chapter.

SEC. 10498. *Action on undertaking.*—If the defendant fails to appear in accordance with the terms of the undertaking provided for in section 10486, the State's attorney of the county shall commence an action thereon in the name of the State for the recovery of the full amount specified in such undertaking, which amount is declared to be liquidated damages. The judgment in such action shall direct the payment of such money as provided in section 10491, so far as the same is applicable and the court may also direct the clerk to issue a bench warrant for the arrest of the defendant and the provisions of sections 10712 and 10713 of this code, so far as the same are applicable, shall govern the proceedings under such warrant.

SEC. 10499. *Proceedings on undertaking.*—If at any time after having given the undertaking provided for in section 10491, the defendant shall be in default in the payment of any sum provided for in the judgment, the court may upon motion of the State's attorney, upon ten days' notice to the defendant and his sureties, enter up judgment on such undertaking and award execution for the amount of money due upon such judgment at the time such motion is heard.

SEC. 10500. *Deposit instead of undertaking.*—The defendant, instead of giving any undertaking required under the provisions of this chapter may deposit with the clerk of the district court of the county in which such proceeding is commenced, a sum of money equal to the amount for which such undertaking is required to be given. Such deposit shall be held to answer the event of such proceeding to the same extent and upon the same conditions as the undertaking in lieu of which such deposit is made.

NOTE ON BIRTH REGISTRATION.—Certificate states whether legitimate or illegitimate. (Sec. 447, No. 5.)

NOTE ON INCESTUOUS MARRIAGES.—The law applies to illegitimate relationship. (Sec. 4359.)

NOTE ON ADOPTION.—Illegitimate mother recognized for purpose of consent requirement. (Sec. 4444.)

NOTE.—Place conducted by one who received illegitimate children, regulated by Laws 1915, ch. 183. This act contains the following provisions:

SEC. 8. *Admission of patients—Report.*—* * * The surname of the child shall be that of the father, whether such child is legitimate or illegitimate, if the name of the father is known. A copy of the records mentioned in this section shall be sent to the judge of the district court within two days after the birth of such child.

SEC. 10. *Expenses collectible from county.*—The necessary expenses of the confinement of the mother of an illegitimate child and the care of the child in any maternity hospital, or other place designated for the care of such child by the judge of the district court, shall, unless paid within four months after such confinement, be a charge upon and collectible from the county in this State in which such woman had legal residence immediately before entering such maternity hospital, and shall be paid by the proper officials of such county upon due proof thereof, to the person or institution entitled to reimbursement, or judge of district court; and an illegitimate child which becomes a public charge may immediately be taken, by a person authorized by the judge of district court, at such time as said judge shall deem advisable, to the county in which the mother had legal settlement at the time such child became a public ward, and shall thereafter continue to be a charge upon such county until otherwise provided for. The expenses incurred in taking such child to said county shall be paid by said county. The expenses collectible from the county for the mother of an illegitimate child during her confinement shall be one dollar (\$1.00) per diem, and the expenses collectible from the county for an illegitimate child shall be thirty-five cents (35) per diem for the maintenance and traveling expenses in addition thereto. In case it is impossible to establish the legal settlement of any child or the mother thereof it shall become a ward of the county in which it was born: *Provided*, That nothing herein shall be construed to dispense with the necessity of making any child a public ward by the juvenile court having jurisdiction or the judge thereof in vacation, but the presence of such child before said court or judge shall not be necessary in case the infant be of tender years.

SEC. 11. *Mothers from another State—Removal.*—Whenever the mother of an illegitimate child, who is without means, has come from another State into North Dakota and remained therein during her confinement, after the child is born and the mother is able to travel, she and the child may be taken to her residence in such other State by some person authorized by the judge of district court.

Non resident mothers.

SEC. 12. *Placing of children.*—Unless duly licensed or authorized by the judge of district court, no person other than said judge shall give out for adoption a child, or place such child under the permanent care and control of any person other than a relative of such child, or give any such child to any person or to a firm, corporation or association, or receive any such child, for the purpose of placing it under the permanent care and control of any person other than a relative of such child.

Laws of 1917, ch. 70. Legitimizing children born out of lawful wedlock.

An act declaring every child to be the legitimate child of its natural parents: making such child an heir of such parents, and providing the procedure for establishing such parentage.

SEC. 1. Every child is hereby declared to be the legitimate child of its natural parents and as such is entitled to support and education, to the same extent as if it had been born in lawful wedlock. It shall inherit from its natural parents and from their kindred heir lineal and collateral.

This section shall apply to cases where the natural father of any such child is married to one other than the mother of said child, as well as where he is single. *Provided, however,* This law shall not be so construed as to give to said child a right to dwelling or a residence with the family of its father, if such father be married.

SEC. 2. The mother of any child born out of lawful wedlock may within one year after the birth of such child bring an action in the district court to establish the defendant to be its father. In such cases the parentage may be proved like any other fact. *Provided,* That the mother of said child shall not be considered a competent witness in any case where the alleged natural father of said child shall be dead at the time of the trial. *Provided,* That a statement in writing may be made by the parents of said child, admitting the parentage thereof, and upon which a judgment may be entered.

SEC. 3. This action shall be deemed cumulative as to the remedies contained in sections 10483 to 10500, inclusive, relating to bastardy proceedings, but all children hereafter born in this state shall be deemed to be legitimate.

SEC. 4. All acts and parts of acts in conflict herewith are hereby repealed.

OHIO.

General Code, 1910

SECTION 8590. *Capability of bastards as to inheritance.*—Bastards shall be capable of inheriting or transmitting inheritance from and to the mother, and from and to those from whom she may inherit, or to whom she may transmit inheritance, in like manner as if born in lawful wedlock.

SEC. 8591. *When illegitimate children deemed legitimate.*—When, by a woman, a man has one or more children, and afterward intermarries with her, such issue, if acknowledged by him as his child or children, will be legitimate. The issue of parents whose marriage is null in law, shall nevertheless be legitimate.

SEC. 11987. *The granting of a divorce and dissolution of the marriage in no wise shall affect the legitimacy of children of the parties thereto.* The court shall make such order for the disposition, care and maintenance of the children, if any, as is just.

SEC. 12110. *Complaint, and warrant for arrest.*—When an unmarried woman, who has been delivered of or is pregnant with a bastard child, makes a complaint in writing, under oath, before a justice of the peace, charging a person with being the father of such child, he thereupon shall issue his warrant, directed to any sheriff or constable of the State, commanding him to pursue and arrest such accused person in any county therein, and bring him forthwith before such justice to answer such complaint.

SEC. 12111. *Examination of the complainant.*—On the return of the warrant, the justice shall examine the complainant, under oath, in the presence of the accused, respecting the cause of her complaint. The accused shall be permitted also to ask her, when under oath, any question he may think necessary for his defense.

SEC. 12112. *Examination in writing.*—The examination of complainant by the justice, the questions of the defendant, and the answers thereto by her must be reduced to writing, in the presence of the justice, and subscribed by her.

SEC. 12113. *Adjournment of examination, and bond to answer complaint.*—On the request of either party, for good cause shown, the justice may continue the examination for a period not to exceed ten days, upon the accused entering into a recognizance

to the State, with sufficient surety, in not less than three hundred nor more than six hundred dollars, to appear and answer the complaint, at the time fixed for its hearing, and abide the order of the justice.

SEC. 12114. *Compromise and bond.*—If, during the examination before the justice, or before judgment in the court of common pleas, the accused pays or secures to be paid, to the complainant, such amount of money or property as she agrees to receive in full satisfaction, and gives bond to the State with sufficient surety, to be approved by the justice, court, or judge in vacation, conditioned to save any county, township, or municipal corporation within the State free from all charges for the maintenance of such bastard child, such justice, court, or judge, shall discharge him from custody, on his paying the costs of prosecution. Such agreement must be made or acknowledged by both parties, in the presence of the justice, court, or judge, who thereupon shall enter a memorandum thereof on his docket, or cause it to be made upon the journal.

SEC. 12115. *When no compromise made, accused to be recognized.*—If no compromise is effected, the justice before whom the complaint was made shall bind the accused to appear at the next term of the common pleas court, in a recognizance to the State, with sufficient surety, in not less than three hundred nor more than six hundred dollars, to answer the accusation, and abide the order of the court. On neglect or refusal to find such security, the justice shall cause the accused to be committed to the jail of the county, there to be held to answer the complaint.

SEC. 12116. *Proceedings for discharge, on bail.*—A person committed to jail for failure to give such recognizance may be discharged from custody by entering into recognizance, with sufficient surety, in not less than one hundred nor more than six hundred dollars, to be taken and approved by a judge of the common pleas court or probate judge of the county, and by him filed in the office of the clerk of the common pleas court.

SEC. 12117. *Justice shall file transcript and papers with clerk.*—The justice before whom the examination is had, within thirty days thereafter, shall file with the clerk of the common pleas court of the county a certified transcript of the proceedings, together with the recognizance, if any be taken, and all other papers therein.

SEC. 12118. *Continuance of cause in common pleas.*—If, at the next term of the court, the complainant has not been delivered, or is unable to attend, or if there be any other sufficient reason therefor, the court may order a continuance of the cause. Such continuance shall operate as a renewal of the recognizance, which shall remain in full force until final judgment.

SEC. 12119. *Surrender of accused by sureties.*—At any term of the court of common pleas, if the sureties on the recognizance surrender the accused and request to be released therefrom, or if the court deems the recognizance insufficient, it may order a new recognizance to be taken, cancel the first, and commit the accused until a new recognizance is given.

SEC. 12120. *Failure of accused to appear at court.*—If the accused fails to appear at the term of court to which he is recognized, his recognizance shall be forfeited. If a verdict of guilty be rendered, and judgment entered thereon as hereinafter provided, the amount of such forfeited recognizance shall be applied in payment of the judgment.

SEC. 12121. *Accused to be permitted to defend.*—Before or on the hearing of the complaint, the court shall permit the accused to appear in person, or by counsel, and make defense.

SEC. 12122. *The trial in court.*—When, before the court to which he is recognized to appear, the accused pleads not guilty of the charge, or, having been recognized, fails to appear, the court shall order the issue to be tried by a jury. At the trial, the examination before the justice shall be given in evidence by the complainant.

SEC. 12123. *Order of court when accused adjudged reputed father.*—If, in person or by counsel, the accused confesses in court that the accusation is true, or, if the jury find him guilty, he shall be adjudged the reputed father of the bastard child, and stand charged with its maintenance in such sum as the court orders, with payment of costs of prosecution. The court shall require the reputed father to give security to perform such order. If he neglects or refuses to give it, and pay the costs of prosecution, he shall be committed to the jail of the county, there to remain, except as provided in the next following section, until he complies with the order of the court.

SEC. 12124. *Law relating to insolvent debtors.*—After having been confined in prison for three months, for failing to comply with the order provided for in the next preceding section, such putative father shall be entitled to the benefits of the law relating to insolvent debtors, in like manner as persons imprisoned for debt. But before he shall be entitled thereto, he must give at least three days' notice to the complainant or her attorney of his intention to apply therefor.

SEC. 12125. *Effect of death of mother if child living.*—The death of the mother shall not abate the prosecution, if the child is living. A suggestion of the fact shall be made,

the name of the child substituted on the record for that of the mother, and a guardian ad litem appointed, who shall not be liable for costs. In such case the testimony of the mother, reduced to writing before the justice, may be read in evidence.

SEC. 12126. *Effect of death of child, if mother living.*—The death of a bastard child shall not be cause of abatement, or bar a prosecution for bastardy, if the mother is living. The court trying the cause, on conviction, shall take the death into consideration, and give judgment for such sum as it deems just, the payment of which, or security therefor, may be enforced as heretofore provided.

SEC. 12127. *Death of child after judgment.*—Upon the death of a bastard child after judgment and before the expiration of the time limited for the last payment on the judgment, the court which rendered the judgment, on motion and notice, may make such reduction in its amount as is just in view of such death.

SEC. 12128. *Justice to furnish transcript on failure of officer to arrest accused.*—When, from the return of the officer on the warrant, it appears that the accused could not be arrested, upon demand, the justice forthwith shall make a certified transcript of the proceedings before him, including copies of the complaint and warrant, with the return thereon, and deliver them to the complainant or her agent or attorney.

SEC. 12129. *Order of attachment, and grounds thereof.*—Upon filing such transcript in the office of the clerk of the common pleas court in the county in which the justice resides, such clerk shall issue an order of attachment when there is filed in his office an affidavit of the complainant, her agent or attorney, showing:

1. That she is the mother of a bastard child, or pregnant with a child which, if born alive, will be a bastard;

2. That the accused person is the father of such child;

3. The existence of one or more of the following grounds: That the accused is not a resident of this State; or, has absconded with the intent to defraud complainant; or, has left the county of his residence to avoid the service of a warrant; or, so conceals himself, that a warrant can not be served upon him.

SEC. 12130. *Proceedings under attachment.*—The order of attachment shall issue without a bond. The amount of property seized thereon shall not exceed one thousand dollars in appraised value. Attachments under this chapter are subject to the provisions of law as to attachments in civil actions, and shall be governed thereby.

SEC. 12131. *Service by publication.*—Upon the return of the order of attachment, service may be had by the publication, for six consecutive weeks, in a newspaper of general circulation in the county wherein the cause is pending, of a notice of the pendency of the proceeding, stating its object, the substance of the complaint, and that an order of attachment has been issued and served therein. In such case, copies of the complaint and order of attachment, with the return thereon forthwith must be deposited in the post office, directed to the accused at his place of residence, unless it appears to the court, by affidavit, or otherwise, that such residence is unknown to the complainant, and could not, with reasonable diligence be ascertained by her.

SEC. 12132. *Personal service of copies of complaint.*—If the defendant's place of residence is known, personal service of certified copies of the complaint and order of attachment, with the returns thereon, may be made at complainant's election, instead of service by publication. The cause may be heard and determined after the expiration of six weeks from the time of personal service, or the first publication of the notice provided for in the next preceding section.

SEC. 12133. *Order of court with respect to attached property.*—If, on such trial, the accused be adjudged to be the reputed father of the child, the court shall order that unless, within a day to be fixed by it, he pays the sum adjudged against him, with costs of prosecution, so much of the property remaining in the hands of the officer, after applying money from the sale of perishable property, and so much of the personal property, lands and tenements, if any, as are necessary to satisfy such order, be sold, under the same restrictions and regulations as if levied on by execution. The money arising therefrom, with any amount recovered from the garnishee, shall be subject to the order and control of the court, and be applied to satisfy such order in such sums and at such times as the court orders and directs. If there be not enough to satisfy the order, it shall stand, and execution may issue thereon for the residue, as in judgments at law. Any surplus of attached property, or its proceeds, shall be returned to the defendant.

SEC. 12134. *Prosecution of suits by persons interested in support of child.*—When a woman has a bastard child, and neglects to bring a suit for its maintenance, or commences one and fails to prosecute it to final judgment, the trustees of a township, or treasurer of a municipal corporation, interested in the support of such child, or the directors of a county infirmary in which she becomes a charge, when sufficient security is not offered to save such county, township, or municipal corporation from expense, may make complaint in behalf thereof, against him who is accused of begetting such child, or take up and prosecute a complaint begun by the mother of such child.

SEC. 12135. *Who may recover on bonds.*—The directors of a county infirmary, trustees of a township, or treasurer of a municipal corporation, in which a bastard child becomes a charge, may sue and recover upon any bond given to the State in a proceeding against such child's reputed father. The provisions of this chapter, and all the remedies herein allowed, apply to all cases in which the infirmary directors, trustees of townships, or treasurers of municipal corporations, are authorized to commence or prosecute a complaint against the reputed father of an illegitimate child.

SEC. 13008. *Neglect to provide for child or pregnant woman.*—Whoever, being the father, or when charged by law with the maintenance thereof, the mother, of a legitimate or illegitimate child under sixteen years of age, or the husband of a pregnant woman, living in this State, being able by reason of property, or by labor or earnings, to provide such child or such woman with necessary or proper home, care, food and clothing, neglects or refuses so to do, shall be imprisoned in a jail or workhouse at hard labor not less than six months nor more than one year, or in the penitentiary not less than one year nor more than three years.

SEC. 13010. *Convicted person may give bond.*—If a person, after conviction under either of the next two preceding sections and before sentence thereunder, appears before the court in which such conviction took place and enters into bond to the State of Ohio in a sum fixed by the court at not less than five hundred dollars nor more than one thousand dollars, with sureties approved by such court, conditioned that such person will furnish such child or woman with necessary and proper home, care, food and clothing, or will pay promptly each week for such purpose to a trustee named by such court, a sum to be fixed by it, sentence may be suspended.

SEC. 13011. *Where offense in preceding sections committed.*—An offense under the next three preceding sections shall be held to have been committed in any county in which such child or pregnant woman may be at the time such complaint is made.

SEC. 13012. *Neglect to pay for keeping child in children's home.*—Whoever, being the father, or when charged by law with the maintenance thereof, the mother, of a legitimate or illegitimate child under sixteen years of age, being legally an inmate of a county or district children's home in this State, neglects or refuses to pay to the trustees of such home, the reasonable cost of keeping such child in such home when able so to do by reason of property, or by labor or earnings, shall be imprisoned in a jail or workhouse at hard labor not less than six months nor more than one year, or in the penitentiary not less than one year nor more than three years.

SEC. 13013. *Convicted person may give bond.*—If a person, after conviction under the next preceding section and before sentence thereunder, appears before the court in which such conviction took place and enters into bond to the State of Ohio in a sum fixed by the court at not less than five hundred dollars, with sureties approved by such court, conditioned that such person will pay, so long as such child remains in such home, to the trustees thereof or to a trustee to be named by the court, for the benefit of the trustees of such home, the reasonable cost of keeping such child, the amount and time of payment to be fixed by the court, sentence may be suspended.

SEC. 13014. *Where offense in preceding section committed.*—An offense under section thirteen thousand and twelve shall be held to have been committed in the county where such children's home is situated.

SEC. 13015. *Failure to give bond—Arrest.*—Upon failure of such father or mother, or husband of such pregnant woman to comply with any order and undertaking provided for in this subdivision of this chapter he or she may be arrested by the sheriff or other officer, on a warrant issued on the praecipe of the prosecuting attorney, and brought before the court for sentence. Thereupon the court may pass sentence, or, for good cause shown, may modify the order as to the time and amount of payments, or take a new undertaking and further suspend sentence as may be for the best interests of such child or children or pregnant woman and the public.

SEC. 13016. *Duties of trustee.*—The trustee appointed by the court under this subdivision of this chapter, shall make quarterly reports of the receipts and expenditures of all moneys coming into his hands as herein provided, such reports to be made to the county commissioners of the county from which such person was sentenced, or to the board of managers of the penitentiary or reformatory as the case may be. The court may require such trustees to enter into a good and sufficient bond for the faithful performance of the duties so imposed on him.

SEC. 13017. *Humane society may act as trustee.*—For the purposes set forth in the provisions of this subdivision of this chapter, a humane society, incorporated, and existing under the laws of this State, being willing to render its services without compensation, may be appointed by the court as such trustee, and when so appointed, shall have the powers of such trustee as herein conferred.

SEC. 13018. *Amount credited convict paid to trustee.*—When a person is convicted, sentenced and fined, under any provisions of this subdivision of this chapter, in a workhouse, the county from which he is so convicted, sentenced and confined, upon the warrant of the county auditor of such county, and out of the general revenue fund thereof, shall pay monthly fifty cents for each day he is so confined, to the trustee appointed by the court under any of such provisions, to be expended by such trustee for the maintenance of the child or children under sixteen years of age, of such person as provided in such provisions. (As amended by Laws 1913, p. 913.)

SEC. 13019. *Persons confined shall be credited with 40 cents per day.*—The board of managers of the penitentiary, or reformatory, to which a person is sentenced and confined under this subdivision of this chapter, shall credit such person with forty cents per day for each working day during the period of such confinement, which shall be paid, or caused to be paid, by such board to such trustee. (As amended by Laws 1911, p. 115.)

SEC. 13020. *Trustee to be named in mittimus.*—When a person is imprisoned in a workhouse, penitentiary or reformatory under this subdivision of this chapter, the name and post-office address of the trustee so appointed by the court shall appear in the mittimus.

SEC. 13021. *Continuance of citizenship.*—Citizenship once acquired in this State by a father or mother of a legitimate or illegitimate child living in this State, for the purpose of this subdivision of this chapter, shall continue until such child has arrived at the age of sixteen years, provided such child so long continues to live in this State.

NOTE ON BIRTH REGISTRATION.—Certificate states whether legitimate or illegitimate; also full name of father, except in the case of illegitimate births. (Sec. 219, as amended by Laws 1913, p. 194.)

OKLAHOMA.

Revised Laws, 1910.

SECTION 4401. *Bastardy; jurisdiction.*—Whenever any woman residing in any county of this State is delivered of a bastard child, or is pregnant with a child which if born alive will be a bastard, complaint may be made in writing duly verified, by any person to the county court of the county where such woman resides, stating that fact and charging the proper person with being the father thereof. The proceeding shall be entitled in the name of the State against the accused as defendant.

SEC. 4402. *Arrest of party charged.*—Upon the filing of such complaint the county judge shall issue his warrant for the arrest of the accused, requiring that he be forthwith brought before such court for trial.

SEC. 4403. *Filing charge; lien.*—From the time of the filing of such complaint a lien shall be created upon the real property of the accused in the county where the action is pending, for the payment of any money and the performance of any order adjudged by the proper court.

SEC. 4404. *Attachment on complaint may issue.*—The judge may also issue an attachment on such complaint without bond, which attachment shall specify the amount in value of property to be seized under the attachment. Such attachment may be revoked at any time by the court on such terms as the court may prescribe.

SEC. 4405. *County attorney; duties.*—It is hereby made the duty of the county attorney of the proper county to appear and prosecute all actions brought under this article [secs. 4401-4411].

SEC. 4406. *Trial of issue.*—Upon the defendant being brought before the court, if he deny the truth of the complaint, the issue to be tried shall be "guilty" or "not guilty," and shall be tried summarily before the court, unless the defendant demand a trial by jury.

SEC. 4407. *Trial—Bond for appearance—Forfeited bond benefit of child.*—If a jury is demanded, the case shall be set for trial at the next term of court, and in the meantime the defendant may be admitted to bail for his appearance at that time, upon his executing a recognizance in a sum fixed by the court, conditioned that he will appear at the time to which such action may be continued. Upon the execution and approval of such recognizance the defendant shall be discharged. In any case where the said bond is forfeited and recovery is had thereon, the proceeds thereof shall be paid into the county court to be held by said court in trust for said child and to be paid out under order of said court. (As amended by Laws 1915, ch. 91.)

SEC. 4408. *Penalty.*—If the accused be found guilty, he shall be charged with the maintenance of the child in such sum or sums, and in such manner as the court shall direct, and with the costs of suit, and execution may issue, immediately, and

afterwards from time to time for the collection of any sum or sums ordered to be paid; and in addition thereto the court shall require the defendant to secure the performance of the order of the court, in such manner as the court shall direct.

SEC. 4409. *Powers of judge.*—The court may at any time, enlarge, diminish or vacate any order or judgment in proceeding under this article on such notice to the defendant and county attorney as the court may prescribe.

SEC. 4410. *Appeals; how taken.*—Appeals may be taken in cases brought under the provisions of this article in the same manner and with like effect as in other actions in the county court.

SEC. 4411. *Duties of county commissioners.*—The board of county commissioners is hereby required to cause proceedings under this article to be brought in all cases where any bastard child or its mother is liable to become a charge upon the county.

SEC. 1816. *County court; jurisdiction.*—* * * The county court, coextensive with the county, shall have original jurisdiction in all probate matters and bastardy proceedings. * * * (As amended by Laws 1917, ch. 119.)

SEC. 2438. *Concealing stillbirth or death of child.*—Any woman who endeavors either by herself or by the aid of others to conceal the stillbirth of an issue of her body, which if born alive would be a bastard, or the death of any such issue under the age of two years, is punishable by imprisonment in the county jail not exceeding one year, or by fine not exceeding one thousand dollars, or both.

SEC. 2807. *Attempt to conceal death of child.*—Any woman who, having been convicted of endeavoring to conceal the birth of an issue of her body, which, if born alive, would be a bastard, or the death of any such issue under the age of two years, subsequently to such conviction endeavors to conceal any such birth or death of issue of her body, is punishable by imprisonment in the penitentiary not exceeding five years and not less than two.

SEC. 3885. *Marriage; who may contract.*—Any unmarried male of the age of twenty-one years or upwards, or any unmarried female of the age of eighteen years or upwards and not otherwise disqualified, is capable of contracting and consenting to marriage; but no female under the age of eighteen years and no male under the age of twenty-one years shall enter into the marriage relation, nor shall any license issue therefor, except upon the consent and authority expressly given, either in person or in writing, by a parent or guardian, and if such consent be given in writing, the written instrument must be acknowledged before some officer authorized to take acknowledgments to deeds, and every male under the age of eighteen years, and every female under the age of fifteen years are expressly forbidden and prohibited from entering into the marriage relation: *Provided*, That this section shall not be construed to prevent the courts from authorizing the marriage of persons under the ages herein mentioned, in settlement of suits for seduction or bastardy, when such marriage would not be incestuous under this chapter.

SEC. 4364. *Legitimacy presumed.*—All children born in wedlock are presumed to be legitimate.

SEC. 4365. *Children born after dissolution of marriage or before wedlock.*—All children of a woman who has been married, born within ten months after the dissolution of the marriage, are presumed to be legitimate children of that marriage. A child born before wedlock becomes legitimate by the subsequent marriage of its parent.

SEC. 4366. *Disputed legitimacy.*—The presumption of legitimacy can be disputed only by the husband or wife, or the descendant of one or both of them. Illegitimacy, in such a case, may be proved like any other fact.

SEC. 4369. *Custody of illegitimate child.*—The mother of an illegitimate unmarried minor is entitled to its custody, services and earnings.

SEC. 4388. *Consent of parents.*—A legitimate child can not be adopted without the consent of its parents, if living, nor an illegitimate child without the consent of its mother, if living, except that consent is not necessary from a father or mother deprived of civil rights or adjudged guilty of adultery, or of cruelty; and for either cause divorced or adjudged to be an habitual drunkard, or who has been judiciously deprived of the custody of the child, on account of cruelty or neglect.

SEC. 4399. *Adoption of illegitimate child by father.*—The father of an illegitimate child by publicly acknowledging it as his own, receiving it as such, with the consent of his wife, if he is married, into his family, and otherwise treating it as if it were a legitimate child, thereby adopts it as such, and such child is thereupon deemed for all purposes legitimate from the time of its

birth. The status thus created is that of a child adopted by regular procedure of court. The foregoing provisions of this article do not apply to such an adoption. (As amended by Laws 1910/11, ch. 73.)

SEC. 3326. *Guardian appointed; how.*—A guardian of the person or estate, or of both, of a child born, or likely to be born, may be appointed by will or by deed, to take effect upon the death of the parent

Guardianship.

appointing:

Second. If the child be illegitimate, by the mother.

SEC. 4534. *Legal residence.*—Legal residence may be acquired in any county for purposes of county relief as follows:

Fourth. Illegitimate children shall have the residence of their mothers, if she have one in the State.

SEC. 4974. *Marriage void.*—When either of the parties to a marriage shall be incapable, from want of age or understanding, of contracting such marriage, the same may be declared void by the district court, in an action brought by the incapable party, or by the parent or guardian of such party; but the children of such marriage, begotten before the same is annulled, shall be legitimate. Cohabitation after such incapacity ceases, shall be sufficient defense to any such action.

SEC. 8420. *Inheritance by illegitimate child.*—Every illegitimate child is an heir of the person who in writing, signed in the presence of a competent witness, acknowledges himself to be the father of such child; and in all cases is an heir of his mother; and inherits his or her estate, in whole or in part, as the case may be, in the same manner as if he had been born in lawful wedlock; but he does not represent his father or mother by inheriting any part of the estate of his or her kindred, either lineal or collateral, unless before his death his parents shall have intermarried, and his father after such marriage, acknowledges him as his child, or adopts him into his family; in which case such child and all the legitimate children are considered brothers and sisters, and on the death of either of them, intestate, and without issue, the others inherit his estate, and are heirs, as hereinbefore provided, in like manner as if all the children had been legitimate; saving to the father and mother respectively, their rights in the estate of all the children in like manner as if all had been legitimate. The issue of all marriages null in law, or dissolved by divorce, are legitimate.

SEC. 8421. *Inheritance from illegitimate child.*—If an illegitimate child, who has not been acknowledged or adopted by his father, dies intestate, without lawful issue, his estate goes to his mother, or, in case of her decease, to her heirs at law.

NOTE ON BIRTH REGISTRATION.—Certificate states whether legitimate or illegitimate. (Laws 1917, ch. 168, sec. 14.)

OREGON.

Lord's Laws, 1910.

SECTION 798. *Conclusive presumptions.*—The following presumptions, and no others, are deemed conclusive:

Presumption of legitimacy. 6. That the issue of a wife cohabiting with her husband, who is not impotent, is legitimate.

SEC. 799. *Certain disputable presumptions.*—All other presumptions are satisfactory, unless overcome. They are denominated disputable presumptions and may be controverted by other evidence. The following are of that kind:

32. That a child born in lawful wedlock, there being no divorce from bed or board, is legitimate.

SEC. 2080. *Concealing death of child.*—If any unmarried woman shall conceal the death of any issue of her body, so that it may not be known whether of such issue was born alive or not, or whether it was not murdered, such woman, upon conviction thereof, shall be punished by imprisonment in the penitentiary not less than six months nor more than one year, or by imprisonment in the county jail not less than three months nor more than one year.

SEC. 2088. *Indictment of mother for murder of bastard.*—When a woman is indicted for the murder of her bastard infant, she may also be charged in the same indictment with the crime defined in section 2080, and if she shall be found not guilty of the charge of murder, she may be found guilty of the crime defined in such section, and punished accordingly.

SEC. 7026. Marriage legitimates bastards—Marriage according to ritual of congregation, valid.—Illegitimate children become legitimate by the subsequent marriage of their parents with each other; and all marriages, to which there are no legal impediments, solemnized before or in any religious organization or congregation, according to the established ritual or form commonly practiced therein, are valid; but in such case, a certificate thereof, containing the particulars specified in section 7021, shall be made and filed for record by the person or persons presiding or officiating in such religious organization or congregation, in like manner and with like effect as in ordinary cases.

SEC. 7351. Illegitimate child heir of mother, but can not claim through her.—An illegitimate child shall be considered an heir of its mother, and shall inherit or receive her property, real or personal, in whole or in part, as the case may be, in like manner as if such child had been born in lawful wedlock; but such child shall not be entitled to inherit or receive, as representing his mother, any property, real or personal, of the kindred, either lineal or collateral, of such mother: *Provided*, That when the parents of such child have formally married, and lived and cohabited as husband and wife, such child shall not be regarded as illegitimate within the meaning of this act, although such formal marriage shall be adjudged to be void.

SEC. 7352 Mother; when heir to illegitimate child—Marriage of parents legitimates child.—If an illegitimate child shall die intestate, without leaving a widow, husband, or lawful issue, the property, real and personal, of such intestate shall descend to or be received by his mother; but if after the birth of an illegitimate child the parents thereof shall intermarry, such child shall be considered legitimate to all intents and purposes.

Laws of 1917, ch. 48. To provide for the support and maintenance of illegitimate children and children born out of lawful wedlock, and to define the rights, duties and obligations of the father and mother of such children, and fixing rights of inheritance.

SEC. 1. Proceedings on complaint.—On complaint being made to any justice of the peace by any unmarried female who shall hereafter be delivered of an illegitimate child or child born out of wedlock, or who shall be pregnant with a child which, if born alive, may be an illegitimate child, or a child born out of lawful wedlock, accusing any person of being the father of such child, the justice shall take such complaint in writing under the oath of such female, and shall thereupon issue his warrant against the person accused, directed to the sheriff or any constable in his county, commanding him forthwith to bring such accused before the justice to answer to such complaint.

SEC. 2. Proceedings on return of warrant.—On the return of such warrant, if the accused be in custody or shall appear, the justice shall examine the complainant under oath respecting the cause of complaint, and the accused may cross-examine her and put any question necessary for his defense, subject to the rules of evidence as provided by the Code of Civil Procedure. Witnesses may be examined on behalf of either party. All testimony taken and proceedings had shall be reduced to writing; the proceedings for cause shown may be adjourned from time to time, not exceeding five days at any one time; and on such adjournment the accused may be recognized for his appearance for such examination in a sum not less than \$100 nor more than \$1,000, and with sureties to the satisfaction of the justice; and in default thereof he shall be committed, pending such examination, to the county jail. The accused shall be entitled to a removal of such action as in criminal examination before justices of the peace.

SEC. 3. Discharge of accused.—If the accused person shall pay or secure to be paid to the female complaining, such sum of money, or other property, as she may agree to receive in full satisfaction, and as shall be approved by the judge of the juvenile court of the county wherein such action is pending, of which agreement and approval the justice shall make a memorandum on his docket, and shall also give bonds with sufficient sureties to be approved by the justice to the county, conditional to secure and indemnify such county from all charges for the maintenance of such child, and shall also pay all expenses, if any, incurred by such county for the lying-in and the support and attendance upon the mother during her sickness, and the costs of prosecution, the justice shall discharge such accused person.

SEC. 4. Recognizance and commitment.—In case any person accused as aforesaid shall not comply with the provisions of the preceding section and there is probable cause to believe the accused person guilty, the justice shall bind such person in a recognizance, with one or more sureties, to be approved by the justice, in a sum of not less than \$200 nor more than \$2,000, to appear at the next term of the circuit court for the proper county, and from time to time thereafter until final judgment, to answer

to the said complaint and to abide the order of said court thereon; and on his neglect or refusal to find such security, the justice shall cause him to be committed to the county jail, there to be held to answer to such complaint; and such justice shall thereupon certify and return the examination and all testimony so taken before him, with all process and papers in the case, to the clerk of said court. In case any examination has been had, as provided by law, and the person complained of has been discharged for want of sufficient evidence to raise a probability of his guilt, and the district attorney shall afterward find admissible evidence sufficient, in his judgment, to convict the person discharged, he may, notwithstanding such discharge, cause another complaint to be made before any officer authorized by law to make such examination, and thereupon another arrest and examination shall be had.

SEC. 5. Upon the trial of the case the issue shall be as to whether the accused is guilty or not guilty; and if the mother of the child be dead, her examination taken before the justice may be read in evidence, and in all cases it shall be read when demanded by the accused. If the accused shall be found guilty or shall admit the guilt of the accusation, he shall be adjudged to be the father of such child, and shall stand chargeable with its future maintenance in such sum and in such manner as the court shall direct, and also for all expenses incurred by such county or by the mother of such child for the lying-in and attendance of the mother during her sickness, and also for the care and support of such child since its birth and for the costs of the prosecution. All which matters shall be ascertained and fixed by the court, and shall be inserted in the judgment: *Provided, however*, That the judgment of the court providing for the maintenance of such child by the father shall be in a yearly sum not less than \$100 nor more than \$350 for the first two years, and not less [than] \$150 nor more than \$500 for each year succeeding until the child reaches the age of fourteen years: *Provided, further*, That defendant shall be entitled to the right of trial by jury, and appeal, as provided in civil actions: *And provided, further*, That no conviction shall be had upon the uncorroborated testimony of said female.

SEC. 6. *Bond or commitment.*—If the person so adjudged to be the father of such child shall give a bond to the proper person in such sum and with such sureties as shall be approved by the court, conditioned for the performance of such judgment and the payment of all sums ordered thereby to be paid as therein directed, and shall pay the costs of prosecution and any sums adjudged then to be paid, he shall be discharged; otherwise he shall be committed to the county jail until he shall comply with and perform such judgment or shall be otherwise discharged according to law. In counties having and maintaining a house of correction, or workhouse, the commitment may be to the house of correction or workhouse of said county, instead of the county jail.

SEC. 7. *When and how discharged.*—Any person who shall have been so imprisoned ninety days may apply for his discharge from imprisonment in the manner provided by law for the discharge from imprisonment of persons confined in jail upon executions against the person; but notice of the application for such discharge shall be given to the complainant, if living, within the State and also the district attorney for the county at least fifteen days before such application for discharge is made: *Provided, however*, That any such person may be recommitted within thirty days after such discharge, as provided in the preceding section hereof.

SEC. 8. *Execution.*—The court, upon motion by the mother of such child or of any person interested, may, from time to time, order execution to issue against the defendant and his sureties in any bond given as aforesaid to secure the performance of any such judgments, or against a defendant who shall have been discharged under the preceding section, for such sum as may at any time become due thereon and remain unpaid.

SEC. 9. *Prosecution by officers.*—When the mother of an illegitimate child or a child born out of wedlock commences any such proceedings and fails to prosecute the same, the proper officers of the county, or any person interested in the support of such child, may prosecute the proceedings commenced by the mother to final judgment.

SEC. 10. *Inquiry of officers.*—If any female shall be delivered of an illegitimate child or child born out of wedlock, which is, or is likely to become a public charge, or if said female shall be pregnant of a child likely to be born in the condition aforesaid and become a public charge, any public officer duly authorized to make arrests, or to cause arrests, may, if he deems proper, apply to some justice of the peace of the county in which said female resides, who shall thereupon examine such female respecting the father of such child, the time when, and the place where, such child was begotten, and as to such other circumstances as he may deem necessary; and such justice shall reduce such examination to writing and shall thereupon issue his warrant, without further or formal complaint, to apprehend the reputed father, and the same proceeding shall be had thereon and with like effects as are hereinbefore provided in cases of complaint made by such female.

SEC. 11. *Attendance of female.*—Any warrant issued under this chapter may be executed in any part of this State; and in all cases said county officers and the accused may compel the said female to attend and testify the same as witnesses in other cases.

SEC. 12. *Compromise.*—The judge of the juvenile court of the county wherein such female shall reside shall have power to make such compromise or arrangement with the putative father of any illegitimate child or child born out of wedlock relative to the support of such child as the said judge shall deem equitable and just, and thereupon may discharge said putative father from all liability for the support of said child.

SEC. 13. Any contract made between a mother of an illegitimate child or child born out of lawful wedlock, and the father of said child, shall be held and deemed in all courts of the State of Oregon to be a legal contract, and the admission by said father of the parentage of said child shall be a sufficient and legal consideration to support said contract.

SEC. 14. Whenever by the court proceeding hereinabove provided, or as is provided by section 3 of this act, the parentage of an illegitimate child shall have been established not later than three years after the birth of such child, and while the father is still alive, such child shall have the same rights of inheritance to the property of the father as now provided by law in regard to inheritance from his or her mother.

NOTE ON ADOPTION LAW.—Illegitimate mother deemed to be of age for purpose of consenting to adoption of child. (Sec. 7099, as amended by Laws 1915, ch. 31.)

NOTE ON WORKMEN'S COMPENSATION LAW.—"Child" includes an illegitimate child legitimated prior to the injury. (Laws 1913, ch. 112, sec. 14, as amended by Laws 1917, ch. 288, sec. 5.)

NOTE ON BIRTH REGISTRATION.—Certificate states whether legitimate or illegitimate. (Laws 1917, ch. 384.)

PENNSYLVANIA.

Purdon's Digest of Laws, 1700-1903, vols. 1-4; Supplement, 1905-1915, vols. 5-7.

Vol. 1, pp. 955-957.

SECTION 247. If any person shall commit fornication, and be thereof convicted, he or she shall be sentenced to pay a fine, not exceeding one hundred dollars, to the guardians, directors or overseers of the poor of the city, county or township where the offense was committed, for the use of the poor of such city, county or township; and any single or unmarried woman having a child born of her body, the same shall be sufficient to convict such single or unmarried woman of fornication; and the man by such woman charged to be the father of such bastard child, shall be the reputed father, and she persisting in the said charge, in the time of her extremity of labor, or afterwards in open court, upon the trial of such person so charged, the same shall be given in evidence, in order to convict such person of fornication; and such person being thereof convicted, shall be sentenced, in addition to the fine aforesaid, to pay the expenses incurred at the birth of such child, and to give security, by one or more sureties, and in such sum as the court shall direct, to the guardians, directors or overseers of the poor of the city, county or township where such child was born, to perform such order for the maintenance of the said child, as the court before which such conviction is had shall direct and appoint.

SEC. 248. If a bastard child is begotten out of the State, and born within the State, or begotten within one of the counties of this State, and born in another, in the latter case, the prosecution of the reputed father shall be in the county where the bastard child shall be born, and the like sentence shall be passed as if the bastard child had been or shall have been begotten within the same county; and in the former case, viz.: of a bastard begotten without the State and born within it, the like sentence shall be passed, except in the imposition of a fine, which part of the sentence shall be omitted.

Vol. 5, p. 5352 (Laws 1907, no. 293, secs. 1-6).

SEC. 52. From and after the passage of this act, when any person shall have been convicted of fornication and bastardy, and sentenced by any court of quarter sessions to pay to the mother of any bastard child any sum or sums of money for the support of such child, it shall be lawful for the mother of such child to file, in the court of common pleas of the county in which such conviction shall have been had, a copy of such sentence, certified by the clerks of the proper court of quarter sessions and under the seal thereof upon which copy, so filed, the prothonotary of the court of common pleas shall enter judgment in favor of the mother and against the defendant, for the full amount of the said sentence, payable in the instalments therein provided, with interest thereon from the time they shall respectively become due, and costs of suit.

SEC. 53. If default be made in the payment of any such installments, and continue for five days, a writ of fieri facias may issue for the collection of all past due installments, and no exemption of property from levy and sale shall be allowed.

SEC. 54. In addition to the writ of fieri facias, above provided, an attachment execution may be issued, and, in addition to such rights and credits as are now attachable, wages and salaries may also be attached thereon, and no exemption of any money, rights, or credits attached thereby shall be allowed.

SEC. 55. The said writs, either or both, may be issued as often as default occurs, until the whole judgment be paid.

SEC. 56. The defendants shall be liable for all costs on any of said writs when properly issued.

SEC. 57. All acts or parts of acts inconsistent herewith are hereby repealed.

Vol. 2., pp. 2004-2005.

SEC. 52. Illegitimate children shall take and be known by the name of their mother, **Name; inheritance.** and they and their issue and their mother and grandmother shall respectively have capacity to take or inherit from each other personal estate as next of kin, and real estate as heirs in fee simple; and as respects said real or personal estate so taken and inherited, to transmit the same according to the intestate laws of this State. This act shall apply to all cases now pending where the estate of such illegitimate or their mother or grandmother has not been actually paid to and received by collateral heirs or relatives, or the commonwealth, as well as to all such cases happening after the passage of this act.¹

SEC. 55. Illegitimate children shall take and be known by the name of their mother, **Name; inheritance.** and the common law doctrine of nullius filius shall not apply as between the mother and her illegitimate child or children. But the mother and her heirs, and her illegitimate child and its heirs, shall be mutually liable one to the other, and shall enjoy all the rights and privileges one to the other, in the same manner and to the same extent, as if the said child or children had been born in lawful wedlock.

Vol. 3, pp. 2445-2446.

SEC. 31. In any and every case where the father and mother of an illegitimate **Legitimation.** child or children shall enter into the bonds of lawful wedlock and cohabit, such child or children shall thereby become legitimated, and enjoy all the rights and privileges as if they had been born during the wedlock of their parents.

SEC. 32. The act, entitled "An act to legitimate children born out of lawful wedlock," passed the 14th day of May 1857, shall be taken to apply to all cases within the terms of that act, prior to its date, as well as those subsequent thereto: *Provided*, That no estate already vested shall be divested by the act.

SEC. 33. All marriages heretofore contracted between parties within the degrees **Void marriage.** of affinity, as prescribed in the 39th section of the act of 21st March 1860, of which issue is born, are hereby legalized, and the child or children of such marriages shall have all the rights and privileges of children born in lawful wedlock: *Provided*, That nothing in this act shall relate to marriages within the degrees of consanguinity as now prohibited by law.

Vol. 3, p. 3197.

Name. SEC. 4. Illegitimate children shall take and be known by the name of their mother.

Vol. 3, p. 3566.

SEC. 60. Every illegitimate child shall be deemed to be settled in the place where **Residence.** the mother was legally settled, at the time of the birth of such child.

Laws of 1917, No. 192. An act relating to the descent and distribution of the real and personal property of persons dying intestate; and to provide for the recording and registering of the decrees of the orphans' court in connection therewith, and the fees therefor.

SEC. 14. Except as otherwise provided in section 15, the foregoing provisions **Inheritance.** of this act relative to descent and distribution of real and personal estate among the heirs and next of kin of intestates shall be construed to mean such persons only as may have been born in lawful wedlock.

¹ Repealed in so far as it relates to inheritance, etc., by Laws 1917, no. 192.

SEC. 15 (a). The mother of an illegitimate child, her heirs and next of kin, the maternal grandfather and grandmother of said illegitimate child, and said illegitimate child, its heirs and next of kin, shall have capacity to take or inherit from each other personal estate as next of kin, and real estate as heirs, under the foregoing provisions of this act, in the same manner and to the same extent as if said child or children had been born in lawful wedlock.

(b) Every illegitimate child shall be considered as a brother or sister to every other child of its mother, legitimate or illegitimate.

(c) The intent of this section is to legitimate an illegitimate child only so far as is provided by clauses (a) and (b) hereof. This section is not intended to change the existing law with regard to the father of such a child, and his heirs and next of kin.

(d) In any and every case where the father and mother of an illegitimate child, or children, shall enter into the bonds of lawful wedlock, or shall heretofore have entered into the bonds of lawful wedlock, such child or children shall be legitimated for all purposes of inheritance by, from, or through such child or children, under the provisions of this act, as if he or they had been born during the wedlock of his or their parents.

SEC. 27. This act shall take effect on the thirty-first day of December, nineteen hundred and seventeen, and shall apply to the estates, real and personal, of all persons dying intestate on or after said day. As to the estates, real and personal, of all persons dying before that day, the existing laws shall remain in full force and effect.

SEC. 28. This act of assembly is intended as an entire and complete system for the descent and distribution of the estates, real and personal, of persons dying intestate. * * *

Vol. 1, p. 901.

SEC. 3. If any woman shall endeavor, privately, either by herself or the procurement of others, to conceal the death of any issue of her body, male or female, which, if it were born alive, would by law be a bastard, so that it may not come to light, whether it was born dead or alive, or whether it was murdered or not, every such mother, being convicted thereof, shall suffer an imprisonment by separate or solitary confinement at labor, not exceeding three years. And if the grand jury shall, in the same indictment, charge any woman with the murder of her bastard child, as well as with the offense aforesaid, the jury by whom such woman shall be tried, may either acquit or convict her of both offenses, or find her guilty of one and acquit her of the other, as the case may be.

Vol. 1, p. 1247.

SEC. 32. The wife or husband who shall have been guilty of the crime of adultery, shall not marry the person with whom the said crime was committed, during the life of the former wife or husband; but nothing herein contained shall be construed to extend to or affect, or render illegitimate, any children born of the body of the wife during coverture.

Laws of 1917, No. 145. An act to increase the powers of courts in proceedings for desertion and nonsupport of wives, children, or aged parents; and in proceedings for failure to comply with orders of court in fornication and bastardy proceedings, or other proceedings for the support of illegitimate children; directing that imprisonment, in such cases, be at hard labor in such institution as the court shall name; providing for the payment by such institution, or, in certain cases, by the county from which the defendant was committed, of the sum of sixty-five cents per day, to be paid to the person designated by the order of the court, providing for the issuance of attachments, and for the disbursement of moneys collected on forfeiture of bonds, bail-bonds, or recognizances; and providing for the payment by the county of the expenses incident to carrying out this act. (Approved May 24, 1917.)

SEC. 1. Whenever in any proceedings brought against any man, wherein it is charged that he has, without reasonable cause, separated himself from his wife or children, or from both, or has neglected to maintain his wife or children; or in any proceedings where any father of an illegitimate child has neglected to comply with the order of court made against him, in fornication and bastardy proceedings, or in any other proceedings for the support of such child, for the payment to the mother of expenses incurred at the birth of the child; or in any proceedings where any child of full age has neglected or shall neglect to maintain his or her parents, not able to work or of sufficient ability to maintain themselves,—the court having jurisdiction shall commit the defendant to imprisonment, for want of a bond with security; or, otherwise, the court may order the defendant to be imprisoned at hard labor under existing laws, or laws that may hereafter be passed, in such penal or reformatory institution in this

Commonwealth as the court shall direct; or the court may discharge a defendant upon his own recognizance, in the custody of a desertion probation officer or other person, subject to such conditions as the court may, in its discretion, impose.

Whenever any defendant shall be ordered to be imprisoned at hard labor, under the provisions of this act, there shall be paid by the official in charge of the penal or reformatory institution in which such defendant is imprisoned, to the person designated in the order of the court as the proper recipient of such money, to be disbursed by the said recipient as the order of court may direct, the sum of sixty-five cents for each day, Sundays and legal holidays only excepted, during which he remains imprisoned. Such sum shall be paid as wages, and shall be paid at such times and in such manner as other wages are paid by cities and counties, and shall be charged as one of the general running expenses of such institution; and, if the labor done in such institution is not sufficient to pay the running expenses of such institution, such sum shall be charged to and paid by the county from which such defendant was committed.

SEC. 2. If the defendant in any such proceeding shall violate the terms of the order of court, the court may issue an attachment upon the petition of such defendant's parent, wife, child, or children, or of any other person or persons having knowledge of the facts.

In case of the forfeiture of a bail-bond in any such proceedings, the court may order that any sum collected, by suit or otherwise, shall be paid, in whole or in part, to such parent, wife, child, or children. In case of the forfeiture of any bond or recognizance with or without surety, given as security under any order of court, any sum collected thereon, by suit or otherwise, shall be paid to such parent, wife, child, or children. Such payment shall not bar or in any way affect the power of the court to enforce its orders against the defendant by attachment or otherwise.

Laws of 1917, No. 290. An act making it a misdemeanor for a parent willfully to neglect to support a child born out of lawful wedlock, whether such child shall have been begotten or shall have been born within or without this Commonwealth; providing punishment therefor, and empowering the court to make an order for support, and to enforce the same. And declaring persons making false statements, in certain cases, guilty of perjury. (Approved July 11, 1917.)

SEC. 1. Any parent who shall willfully neglect or refuse to contribute reasonably to the support and maintenance of a child born out of lawful wedlock shall be guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding five hundred dollars (\$500), or imprisonment not exceeding six months, or both, with or without hard labor, in the discretion of the court.

SEC. 2. Proceedings under this act may be instituted upon complaint made, under oath or affirmation, by the parent of such child.

SEC. 3. This act shall apply whether such child shall have been begotten or shall have been born within or without this Commonwealth.

SEC. 4. Before the trial, with the consent of the defendant indorsed on the bill of indictment, as now provided by law, or at the trial on entry of a plea of guilty, or after conviction, instead of imposing the fine herein provided, or in addition thereto, the court in its discretion, having regard to the circumstances and to the financial ability and earning capacity of the defendant, shall have the power to make an order, which shall be subject to change by the court, from time to time, as circumstances may require, directing the defendant to pay a certain sum periodically, for such time and to such person as the court may direct; and the court shall have the power to suspend the sentence herein provided, and release the defendant from custody on probation, in manner provided by "An act for relief of wives and children deserted by their husbands and fathers within this Commonwealth," approved the thirteenth day of April, Anno Domini one thousand eight hundred and sixty-seven, and the supplements thereto: *Provided*, That the defendant has entered into a recognizance, in such sum, with or without surety, as the court shall direct, for compliance with such order.

SEC. 5. Whenever a parent is paying for the support of a child, under an order of court made in any other proceeding, civil, criminal, or quasi-criminal, said parent shall not be subject to proceedings for support for the same child under this act: *Provided, however*, That if said parent, as defendant in such other proceedings, has failed to obey such order of court, said parent shall be subject to all the provisions of this act.

SEC. 6. Any person who shall, at any stage of the proceedings under this act, knowingly make false statements as to who is the parent of a child, shall be guilty of the crime of perjury.

NOTE ON BIRTH REGISTRATION.—Certificate states whether legitimate or illegitimate. (Laws 1915, no. 402, sec. 14.)

PORTO RICO.

Revised Statutes and Codes, 1911.

SECTION 3250. Children are legitimate, illegitimate, or legitimized. 1. Legitimate children are those born in wedlock. 2. Illegitimate children are those born out of wedlock. 3. Illegitimate children may be legitimized either by the marriage of their parents, or in accordance with the provisions of this code.

SEC. 3251. Legitimate children are those born 180 days after the marriage has been celebrated and before 300 days have passed after the marriage has been dissolved.

Definitions and presumption of legitimacy. Against legitimacy no other proof shall be admitted than the physical impossibility of the husband to use his wife within the first one hundred and twenty days of the three hundred days that have preceded the birth of the child.

SEC. 3252. A child is also legitimate if born within 180 days after the celebration of the marriage, if the husband should not contest legitimacy.

SEC. 3253. The legitimacy of a child may be disputed if born after 300 days from the dissolution of the marriage; but the child and its mother shall also have the right to prove the paternity of the husband in such case.

SEC. 3254. Legitimacy can only be disputed by the husband or his legitimate heirs. The latter can only contest the legitimacy of a child in the following cases: 1. If the husband has died before the termination of the period fixed for instituting his action in court. 2. If he shall have died after presenting his action without having desisted from it. 3. If the child was born after the death of the husband.

SEC. 3255. The action to contest the legitimacy of the child shall be instituted within three months after the inscription of its birth in the registry, if the husband be in Porto Rico, or after six months if he should be abroad, reckoning from the time he has knowledge of the birth.

SEC. 3257. Only natural children are entitled to be legitimized. (As amended by act of March 9, 1911, p. 234.)

SEC. 3258. The legitimation of natural children shall be accomplished by the subsequent wedlock of the parents. (As amended by act of March 9, 1911, p. 234.)

SEC. 3259. Legitimized children shall enjoy the same rights as the legitimate children. (As amended by act of March 9, 1911, p. 234.)

SEC. 3260. The legitimation shall become effective from and after the date of the wedlock of the parents. (As amended by act of March 9, 1911, p. 234.)

SEC. 3261. The legitimation of children dying prior to the wedlock of their parents shall benefit their descendants. (As amended by act of March 9, 1911, p. 234.)

SEC. 3262. The legitimation may be disputed by persons considering their rights impaired, when the legitimation be granted in favor of persons not having the lawful condition of natural children, or when the requirements prescribed in this chapter have not been met. (As amended by act of March 9, 1911, p. 234.)

SEC. 3263. Natural children are those born out of wedlock, from parents, who, at the moment when such children were conceived or were born could have intermarried with or without dispensation. (As amended by act of March 9, 1911, p. 234.)

Definition; proof of paternity and maternity. The natural child may be recognized by the father and mother conjointly or by one of them only either in the record of birth or in the testament or in any other public instrument.

The father is obliged to recognize the natural child:

1. When there exists an indubitable statement in writing of the father wherein he expressly acknowledges his paternity.

2. Where the child has uninterruptedly enjoyed the condition as of a natural child of the defendant father justified by acts of the same father or of his family.

3. When the mother was known to have lived in concubinage with the father, both during her pregnancy and at the time of the birth of the child.

4. When the child may present any authentic evidence of his paternity.

The mother shall likewise be obliged to recognize a natural child in the same cases as the father, and further where the act of the confinement and the identity of the child are fully established.

The child, if of age, can not be recognized without his consent.

When the recognition of the minor is not made at the time of recording the birth or in the testament, the approval of the judge of the district court of the district where the child resides, with the concurrence of the fiscal, shall be necessary.

SEC. 3264. The action for the recognition of natural children, can only be established during the life of the presumptive parents, and a year beyond their death except in the following instances:

1. If the father or the mother shall have died during the minority of the child, in which case, the child may bring his action before the first four years of his having attained his majority, shall have elapsed.

2. If after the death of the father or mother there shall appear a written statement or document, of which no notice was previously had, wherein the child is expressly recognized.

In this case the action shall be established within the next six months after the document has been discovered.

The recognition of a child not having the qualifications provided for in paragraph first of section 3263 can be disputed by whomsoever may be affected thereby. (As amended by act of March 9, 1911, p. 234.)

SEC. 3265. A natural child has the right:

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|---|--|
| <p>Name; support; inheritance.</p> | <p>1. To use the surname of the parent making the recognition.</p> <p>2. To be supported.</p> <p>3. To receive the hereditary portion determined in this code.</p> |
|---|--|
- (As amended by act of March 9, 1911, p. 234.)

SEC. 3266. The illegitimate children lacking the lawful qualification of natural children are only entitled to such support from their parents, as is prescribed in section 3283. (As amended by act of March 9, 1911, p. 234.)

SEC. 3267. The right to the support mentioned in the preceding section can only be exercised:

1. Where the paternity or maternity is inferred from a final judgment rendered in a criminal or civil action.

2. Where the paternity or maternity is shown by a[n] indubitable document from the father or mother wherein the filiation is expressly recognized. (As amended by act of March 9, 1911, p. 234.)

SEC. 3809. The acknowledgment of an illegitimate child does not lose its legal force even though the will in which it was made may be revoked.

SEC. 3282. Support is understood to be all that is indispensable for maintenance, housing, clothing, and medical attention, according to the social position of the family.

Support also includes the education and instruction of the person supported when he is a minor.

SEC. 3283. The following are obliged to support each other, within the full meaning of the preceding section:

1. Husband and wife.
2. Legitimate ascendants and descendants.
3. Parents and legitimized children and the descendants of the latter.
4. Parents and illegitimate children and the legitimate descendants of the latter.
5. The adopter and the person adopted, excepting the provisions of section 3276.

Brothers and sisters also owe to their legitimate brothers and sisters, even when only on the mother's or the father's side, the aid necessary to maintain their existence, when through a physical or mental defect or for any other cause not the fault of the person requiring support, the said person can not provide for himself. With such support are included the expenses necessary for the elementary education and teaching of a profession or trade.

SEC. 3284. A claim for support, when proper and when there are two or more persons who are bound to give it, shall be made in the following order:

1. To the husband or wife.
2. To the nearest descendants.
3. To the nearest ascendants.
4. To brothers or sisters.

Among descendants and ascendants the gradation shall follow the order in which they are to inherit the legitime of the person having the right to be supported.

SEC. 3285. When the obligation to support devolves upon two or more persons, the amount that each shall pay shall be proportioned to his respective estate.

Nevertheless, in cases of urgent necessity and under special circumstances, the judge may order one of them to provisionally provide such support, and he shall have the right to reclaim from the others their corresponding part of the amount.

When two or more persons claim support at the same time of a person lawfully obliged to give it, and the latter have not sufficient fortune to attend to the needs of all, the order established in the preceding section shall be observed, unless the

persons requiring support be the husband or wife and a child subject to patria potestas, in which case such husband or wife shall be preferred to the child if they be the mother or father of such child, and if not, the support shall be divided equally between them.

Sec. 3286. The amount provided for support shall be proportioned to the resources of the person giving such support and to the necessities of the party receiving it, and shall be reduced or increased in proportion to the resources of the former and the necessities of the latter.

Sec. 3287. The obligation to support may be claimed from the time the person having a right thereto shall require such support; but it shall not begin until the date on which a petition therefor is made.

Payments for support shall be made monthly, in advance, and when the person receiving the same dies, his heirs shall not be required to return any sum that may have been paid in advance.

Sec. 3288. The person obliged to render support may, if he so elects, either pay the amount required to be paid or receive and maintain in his own dwelling the person having a right to such support.

Sec. 3289. The obligation to give support ceases with the death of the person obliged to give it, even when given in fulfillment of a final judgment.

The right to receive support cannot be relinquished or transmitted to a third party. Neither shall such support be set off against any amount owing by the recipient to the person obliged to give it.

Sec. 3290. The obligation to give support shall also cease:

1. With the death of the recipient.
2. When the fortune of the person obliged to give it shall have been reduced so that he can not do so without disregarding his own needs and those of his family.
3. When the recipient is capable of working at a trade, profession or industry, or has obtained employment or bettered his fortune, so that he does not stand in need of the amount given for support.
4. When the recipient, whether or not a forced heir, shall have committed any of the offences which may be a cause for disinheritance.
5. When the recipient is a descendant of the person obliged to give support and the necessity therefor arises from wrong conduct or lack of application to work, during the time such cause exists.

Sec. 3292. The patria potestas over the legitimate children not emancipated belongs in the first place to the father, and in case of his absence, legal incapacity or death, to the mother.

Illegitimate children and adopted minors shall be under the potestas of the father or mother acknowledging or adopting them. Where they have been acknowledged or adopted by both parents, the provision of paragraph one of this section shall be applicable. (As amended by act of March 14, 1907, p. 284.)

Sec. 4001. Legitimate and acknowledged illegitimate children and their issue succeed to their fathers and other ancestors without distinction of sex or age, and even though they proceed from different

Custody.

marriages.

Sec. 4006. The illegitimate father and the illegitimate mother if there be any shall inherit in equal portions. In case there be only one he or she shall succeed to the child in the property of the inheritance.

Sec. 4007. In default of father and mother the lawful ancestors nearest in degree shall succeed or natural parents with respect to the illegitimate child recognized by the father or the mother in whose place the ancestor is put by the right of succession.

If there have been different ancestors of the same degree belonging to the same line, the inheritance shall be divided according to the number of ancestors (per capita). If they be of different lines, but of equal degree, one-half shall go to the paternal ancestors and the other half to the maternal ancestors. In each line the division shall be made according to the number of ancestors (per capita).

Sec. 4009. In default of legitimate descendant or ascendant the natural children legally recognized shall succeed the deceased in the whole of the inheritance.

If with the natural children there shall concur the descendants of another deceased natural or legitimized child, the former shall succeed by their own right and the latter by right of representation.

The rights of inheritance granted to natural children by the two preceding paragraphs, shall be transferable at their death to their descendants, who shall inherit their [sic] deceased grandparent.

Should there be any legitimate descendants or ascendants, the natural descendants shall receive only that portion of the inheritance allowed to them by the act amending and repealing sections 795, 796, etc., of the Civil Code, approved March 9, 1905.

A natural child has no right to succeed intestate legitimate children or relatives of the father and mother who has recognized him or her, nor they a natural or legitimized child.

Should a natural recognized child die without leaving a recognized or legitimized (by him or her) posterity, the deceased shall be succeeded in his or her entirety by the father or mother who recognized him or her; and if both parents performed the recognition and lived, both shall inherit in equal portions.

In default of natural ascendants, the natural child, shall be succeeded by his or her natural brothers or sisters in accordance with the rules established for legitimate brothers and sisters. (As amended by act of March 9, 1911, p. 236.)

SEC. 3886. When the testator leaves legitimate children or descendants, and natural children, legally acknowledged, each of the latter shall have a right to a portion equal to one-half of that pertaining to each of the legitimate children who have not received any additional portion: *Provided*, It can be included in the third, which may be freely disposed of, from which it must be taken, after the burial and funeral expenses have been deducted.

The legitimate children may pay the portion pertaining to the natural ones in cash, or in other property of the estate, according to just rules.

SEC. 3887. Should the testator not leave any legitimate children or descendants, but does leave legitimate ascendants, the acknowledged natural children shall have a right to one-half of the part of the estate which can be freely disposed of by the testator.

This is understood without prejudice to the legal portion of the surviving spouse, in accordance with article ten hereof; so that when the spouse survives with acknowledged natural children, what may be lacking to make up their legal portion shall be awarded to them as a naked property right during the life of the spouse.

SEC. 3888. When the testator leaves no legitimate descendant or ascendants, the acknowledged natural children shall be entitled to a third of the inheritance.

SEC. 3889. The rights granted natural children by the foregoing section are transmitted on their death to their legitimate descendants.

SEC. 3890. The rights of succession which the law grants natural children extends [sic] reciprocally in similar cases to the natural father or mother.

SEC. 3891. The gifts which the natural child may have received from its father or mother shall be charged to its legal portion.

Should they exceed the third which can be freely disposed of, they shall be reduced in the manner prescribed by the civil code.

NOTES ON BIRTH REGISTRATION.—Certificate states whether legitimate or illegitimate. (Sec. 231.)

In respect to newly born children of illegitimate origin, it shall not be necessary to state in the register who the father or the paternal grandparents are, unless the father himself makes the declaration of birth and paternity. The same procedure shall be observed as regards the statement of the mother's name and those of the maternal grandparents when the declaration of birth is made by the father alone. (Sec. 232.)

When a child is born during an uninterrupted marriage, or at a time when he must be legally reputed as born within such marriage, no declaration contrary to his legitimacy can be recorded in the register until so ordered by a competent court by final judgment. (Sec. 233.)

On the margin of registrations of births there shall be recorded the following acts relating to the persons to whom such registrations refer:

1. Legitimations.
2. Acknowledgment of illegitimate children.
3. Decrees regarding filiations. (Sec. 235.)

NOTE ON CUSTODY.—Indigent child may be committed to institution for care of orphans; if a bastard, by the mother. (Sec. 184.)

RHODE ISLAND.

General Laws, 1903, ch. 95 Maintenance of bastard children.

SECTION 1. In case any unmarried woman is found to be with child or shall have been delivered of a child, the overseer of the poor of the town in which such unmarried woman shall reside or belong may and, upon the payment of such sum or the giving of such security as he shall deem sufficient to indemnify such town for the expenses of the lying-in of such woman and the support of such child and the expenses of the town in that behalf, shall accept such sum or security, whether before or after complaint and suit, and thereupon shall stay all further proceedings in the case.

SEC. 2. Upon the examination of any unmarried woman, taken before any justice or clerk of a district court in whose jurisdiction she may reside or belong, alleging on oath in writing that she is with child or has been delivered of a child and naming the father thereof, such justice or clerk, on complaint of the overseer of the poor of such town, may issue a warrant commanding the person she shall charge to be the father of said child to be brought before said district court to be dealt with according to law.

SEC. 3. Said warrant shall be directed to the sheriff or his deputy of any county, or to any town sergeant or constable in the State.

SEC. 4. If said accused shall plead "guilty" or "nolo contendere" before said district court, said district court shall adjudge him to be the putative father of said child and shall order him to pay to said overseer of the poor, by installments or otherwise, such sum as shall in the judgment of said court be necessary to defray the expenses of the lying-in of such woman and the support of said child, and of the other expenses of said town in connection with said complaint and the costs of said complaint. If said accused shall plead "not guilty" to said complaint before said district court a trial shall be had, and said accused shall be required by said court to recognize with sufficient surety or sureties, in such sum as said court shall direct, to appear before said court for trial, whenever the same shall be held and also to abide and perform the order of said court. If on such trial the accused person shall be adjudged by said court to be the putative father of said child, the like order shall be made as if he had pleaded "guilty" or "nolo contendere" before said court; and whenever payment shall be ordered by said district court to be made by installments, the court may also order security, or a bond with surety or sureties, to be given to said overseer of the poor for the payment of said installments. From all such judgments and orders of said district court, there shall be an appeal to the superior court for the county in which said district court is holden, such appeal to be claimed in said district court within five days after such judgment and order, and said respondent shall be required to recognize with surety or sureties, in such sum as said district court shall direct to appear in the superior court on the assignment day for said appeal, and whenever his appeal is called for trial, and there prosecute his appeal with effect, and abide and perform the order of said superior court thereon. The assignment day for such appeals shall be the same as for appeals in criminal cases in the superior court. Upon such appeal the clerk or justice of the court appealed from shall forthwith certify and transmit all the papers in the case to the clerk of the superior court, who shall receipt for the same. (As amended by Laws 1915, ch. 1215.)

SEC. 5. If the woman shall not have been delivered at the time of the return of said warrant, said district court may continue the complaint for hearing or trial before said district court from time to time or to such time as said woman shall have been delivered, and may require said respondent to recognize with surety or sureties for his appearance at such time. (As amended by Laws 1915, ch. 1215.)

SEC. 6. In case of the death of said child before or after complaint made as aforesaid, said district court on complaint made may order the payment of the expenses of the lying-in of the mother, the support of said child and the expenses of its sickness and burial, and all costs and expenses of said town in that behalf.

SEC. 7. The trial in the superior court shall be by jury unless waived by the parties, when the same shall be by the court.

SEC. 8. No appeal shall be had from the judgment and order of the superior court in such cases, but new trials may be granted on petition of either party under like restrictions as in civil cases.

SEC. 9. If on trial in the superior court the jury shall find the respondent guilty, or if, on waiver of a trial by jury, he shall be adjudged guilty by the court, or if said respondent shall plead guilty or nolo contendere, said superior court shall make a new order requiring said respondent to pay to said overseer of the poor, by installments or otherwise, such sum as shall in the judgment of said court be necessary to defray the expenses of the lying-in of such woman and the support of said child, and of the other expenses of said town in connection with said complaint and the costs of said complaint, and whenever payment shall be ordered by the superior court to be made by installments, the court may also order security, or a bond with surety or sureties, to be given to said overseer of the poor for the payment of said installments. (As amended by Laws 1915, ch. 1215.)

SEC. 10. The said overseer of the poor shall be entitled to an appeal to the superior court on entering into a recognizance to prosecute such appeal with effect, or in default thereof to pay all costs which may accrue on said complaint to said respondent or to any other person; and in case said accused shall be acquitted, he shall recover of said overseer of the poor all the costs to which he may have been put by reason of said complaint.

SEC. 11. Depositions, taken according to the law regulating the taking of depositions in civil cases, may be used in the trial of such cases before said district court and superior court.

SEC. 12. If the accused shall fail to appear in pursuance of any recognizance requiring him to appear before said district court, said court may proceed to make an order as if said accused had appeared and pleaded guilty to said complaint, or if said accused shall fail to appear before the superior court as required by recognizance, or on appeal from said district court to the superior court, the superior court shall proceed to make an order as if said accused had appeared and pleaded guilty to said complaint, and in all such cases said recognizance shall be held good as security for the performance of said order. (As amended by Laws 1915, ch. 1215.)

SEC. 13. The payment of such expenses and costs as shall be finally adjudged by said order and all costs thereon shall discharge the security or the bond given for the performance of said order and all recognizances for the appearance of said accused. (As amended by Laws 1915, ch. 1215.)

SEC. 14. Any respondent, who shall neglect or fail to comply with the order of any court requiring him to make payment, or to give security, or bond, or recognizance in accordance with the provisions of this chapter, shall be committed to the jail in the county, in which such court is, there to remain until he shall comply with such order, or be discharged pursuant to law. If any person committed to jail by virtue of this chapter is poor and unable to pay such sum or sums as may be ordered, or to comply with the order of the court, the court by whom said order was made, on application for that purpose, may at any time wholly discharge such person from such jail and imprisonment, or at any time may release him from such imprisonment in jail for such time or times and on such terms and conditions as it may deem expedient. Whenever such person so released shall fail or neglect to abide by or perform the terms and conditions of his release, such court may issue a *capias* to apprehend him, and may commit him again to such jail, there to remain, until he shall have complied with the original order made by said court, or be discharged or released in accordance with the provisions of this section, or be discharged pursuant to law. (As amended by Laws 1915, ch. 1215.)

SEC. 15. In case any unmarried woman, having no legal settlement in this State, is with child or has been delivered of a child, the agent of State charities and corrections shall have all the powers and shall perform the same duties as are conferred upon or required of the overseers of the poor in relation to bastard children.

SEC. 16. Complaint in such cases may be made by the agent of State charities and corrections in behalf of the State, to any justice or clerk of a district court in the county in which such unmarried woman shall be found, and like proceedings shall be had as herein required in cases of complaint made by an overseer of the poor under the provisions of this chapter.

SEC. 17. Whenever the overseer of the poor of any town shall be the justice or clerk or assistant justice of the district court having jurisdiction in such town, every complaint under the provisions of this chapter shall be brought before and heard by the district court in any adjoining district.

SEC. 18. No complaint under the provisions of this chapter shall abate by reason of the death of the complainant, but the successor in office of the complainant may appear and prosecute said complaint to final judgment in the same way as the original complainant could have prosecuted the same if he had survived.

Ch. 92.

SEC. 1. A legal settlement in any town shall be gained, so as to oblige such town to relieve and support the person gaining the same in case he becomes poor and stands in need of relief, by any of the ways and means following and not otherwise:

Third. Illegitimate children born in this State shall follow and have the settlement of their mother at the time of their birth; but neither legitimate nor illegitimate children shall gain a settlement by birth in the places where they may be born, if neither of their parents shall have a settlement there.

Ch. 243.

SEC. 2. No woman shall marry her father, grandfather, son, son's son, daughter's son, stepfather, grandmother's husband, daughter's husband, son's daughter's husband, daughter's daughter's husband, husband's father, husband's grandfather, husband's son, husband's son's son, husband's daughter's son, brother, brother's son, sister's son, father's brother, mother's brother.

SEC. 3. If any man or woman shall intermarry within the degrees aforesaid, every such marriage shall be null and void, and the issue thereof shall be deemed and adjudged illegitimate and be subject to all the disabilities of such issue.

Ch. 316.

SEC. 7. Bastards shall be capable of inheriting or transmitting inheritance on the part of their mother, in like manner as if they had been lawfully begotten of such mother.

Ch. 347.

SEC. 10. Every woman who shall conceal the birth of any issue of her body, which, if it were born alive, would be a bastard, so that it may not be known whether it was born dead or alive, or conceal the death of any infant bastard child born of her body, so that it may not be known whether such child was murdered or not, shall be imprisoned not exceeding ten months or be fined not exceeding three hundred dollars.

SEC. 11. Any woman who shall be indicted for the murder of her infant bastard child, may also be charged in the same indictment with either or both of the offenses mentioned in the preceding section, and if, upon trial, the jury shall acquit her on the charge of murder and find her guilty of the other offenses, or either of them, judgment and sentence may be awarded against her accordingly.

SOUTH CAROLINA.

Code of 1912,

Criminal Code.

SECTION 691. *Reputed father of bastard to maintain it; to give bond.*—If any woman be delivered of a bastard child or children, and shall, at any time after the birth thereof, give information to some magistrate of the county in which she resides, or may be so delivered, and will declare, on oath, who is the father of her child or children, it shall be the duty of such magistrate to issue a warrant to apprehend and bring before him, or some other magistrate, the person so accused, who shall be obliged to enter into a recognizance, with two good and sufficient sureties, in the penal sum of three hundred dollars, conditioned for the annual payment of twenty-five dollars for the maintenance of the child until the age of twelve years, and so to save harmless the said county.

SEC. 692. *Women refusing to declare father of bastard to be committed to jail or give security.*—When any woman, who is charged with having had a bastard child or children, shall be brought before a magistrate and shall not voluntarily give such information, such magistrate may, on information thereof, and that such child is likely to become a burden to the county, issue his warrant against such mother, requiring her to be brought before him, or the next magistrate, and declare who is the father, and, on her refusal so to declare, the magistrate aforesaid shall commit her to jail until she shall declare the same, or shall give security that the said bastard child shall not become chargeable to the county wherein she resides.

SEC. 693. *Resistance of warrant ground for indictment.*—Should the person accused evade or resist the warrant so issued, it shall be the duty of the constable to return the same to the clerk of the court as other sessions papers, with a special note thereof, by way of return, on oath, whereupon a bill of indictment may be given out, and, if found, a bench warrant may issue, and, in case the accused shall be arrested on any warrant issued and shall refuse to enter into such recognizance, he shall be committed to prison, there to remain until he shall enter into such recognizance.

SEC. 694. *Issue for jury on denial by reputed father—Security, etc., on conviction.*—Should such person be unable to comply with the requisitions hereinbefore mentioned, or should he deny that he is the father of the said child or children, a jury shall be charged, in the court of sessions, to try the question whether the accused is or is not the father of such child or children; and on his acquittal he shall be discharged; or, if convicted, he shall be required to give the security or recognizance hereinbefore required; and in default thereof, shall be liable to execution, as are defendants convicted of misdemeanors: *Provided*, That on the annual payment of the sum of twenty-five dollars, the execution, except as to costs, shall be stayed until another installment falls due.

SEC. 695. *In case of twins, recognizance to be for support of both, etc.*—If the birth be of twins, the recognizance or judgment shall be conditioned for the support of both the bastards, and for the payment of double the amounts required in the case of a single child.

SEC. 973. Apprenticeship of poor children—Illegitimate children.—In case any poor child or children shall be, or become, chargeable to the county, the county board of commissioners may bind out any such child or children as an apprentice to some person of good moral character until such child, if he be male, shall arrive at the age of sixteen years, and if it be a female, until she arrive at the age of fourteen years or shall marry. The said board shall have power to bind out to service, under some person of good moral character, any illegitimate child or children likely to become chargeable to the county, or liable to be demoralized by the immoral conduct or evil example of their mother or other persons having them in charge, in the manner and for the time prescribed for pauper children, and they shall have power to issue all necessary writs to enforce the provisions of this section.

SEC. 974. Moneys paid by fathers of bastards.—Any moneys becoming due on any recognizances given for the maintenance of any illegitimate child or children, if such child or children shall be bound out to service, shall be paid to and received by the supervisor, to be invested and expended by him under the order of the probate court for the benefit of such illegitimate child.

SEC. 1530. How legal settlements may be acquired.—Legal settlements may be acquired in any county, so as to oblige such county to relieve and support the persons acquiring the same, in case they are poor and stand in need of relief, in the manner following, namely:

3. *Of illegitimate children.*—Illegitimate children shall follow and have the settlement of their mother at the time of their birth, if she then has any within the State; but neither legitimate nor illegitimate children shall gain a settlement by birth in the county where they may be born, if neither of their parents then has a settlement therein.

SEC. 3454. Certain conveyances to bastard children or their mother void.—If any person who is an inhabitant of this State, or who has an estate herein, shall have already begotten, or shall hereafter beget, any bastard child, or shall live in adultery with a woman, the said person having a wife or lawful children of his own living, and shall give, or settle, or convey, either in trust or by direct conveyances, by deed of gift, legacy, devise, or by any other ways or means whatsoever, for the use and benefit of the said woman with whom he lives in adultery, or of his bastard child or children, any larger or greater proportion of the real clear value of his estate, real or personal, after payment of his debts, than one-fourth part thereof, such deed of gift, conveyance, legacy, or devise, made or hereafter to be made, shall be null and void, only in favor of wife and legitimate children, for so much of the amount or value thereof as shall or may exceed such fourth part of his real and personal estate.

SEC. 3562. Illegitimate child inherits from mother—Mother inherits from illegitimate child—Death by wrongful act.—Any illegitimate child or children, whose mother shall die intestate, possessed of any real or personal property, shall be, so far as said property is concerned, an heir or heirs at law as to such property, notwithstanding any law or usage to the contrary.

Whenever any illegitimate child shall die in this State, leaving property, real or personal, the mother of such child shall have the same right to inherit from such child as she would have if said child had been legitimate.

In the event of death of such illegitimate child, or the mother of such illegitimate child, by the wrongful or negligent act of another, such illegitimate child, or the mother of such illegitimate child, shall have the same rights and remedies in regard to such wrongful or negligent act as though such illegitimate child had been born in lawful wedlock.

SEC. 3575. Certain legacies declared void.—If any person who is an inhabitant of this State, or who has any estate therein, shall beget any bastard child, or shall live in adultery with a woman, the said person having a wife or lawful children of his own living, and shall give, by legacy or devise, for the use and benefit of the said woman with whom he lives in adultery, or of his bastard child or children, any larger or greater proportion of the real clear value of his estate, real or personal, after paying of his debts, than one-fourth part thereof, such legacy or devise shall be null and void for so much of the amount or value thereof as shall or may exceed such fourth part of his real and personal estate.

SEC. 3793. Adoption of children—Change of name; how affected [sic].—Any person or persons who may desire to adopt any child or children in this State, and confer upon such child or children so adopted the right to inherit as the lawful child of the said person or persons, whether it be desired to change the name of such child or children or not, shall be authorized to file his or their petition in the court of common pleas for the county in which he, she or they may reside; and

thereupon, the court, upon an examination into the merits of the said petition, either in open court or upon reference, shall be authorized to grant the prayer thereof, upon such terms as may to the court seem proper; and, thereupon, the name of the said child or children shall be changed, if so provided in the decree of said court, and such child or children shall be entitled to inherit from the said petitioner or petitioners as his, her or their lawful child or children: *Provided*, That before any hearing shall be had on said petition, the child or children so sought to be adopted, and whose name or names are sought to be changed, shall be served with a copy of said petition, and guardian ad litem for such child or children shall be appointed as in other civil actions: *Provided, further*, That whenever the child or children, whose adoption may be desired by any person or persons in accordance with the foregoing provisions of this section, is or are an inmate or inmates of any orphan house within this State, then the petition for the adoption of such child or children hereinbefore required may be filed, and all other proceedings in reference thereto had in the court of common pleas for the county in which such orphan house is situated, with like force and effect in every respect, as if such petition had been filed and such proceedings had in the court of common pleas for the county in which the petitioner or petitioners may reside: *Provided*, That no person in this State shall adopt an illegitimate child unless the father and mother of such child, if both were unmarried at the time of its birth, could have lawfully contracted matrimony under the constitution and laws of this State, nor when the person seeking to adopt an illegitimate child has, at the time of filing the petition, either a lawful wife or child, unless the wife is the mother of such illegitimate child, and unless the wife file her written consent to said adoption in the office of the clerk of court of the county wherein said petition is filed: *Provided, further*, That no person who adopts any illegitimate child shall give to such child, by deed, will or otherwise, any greater portion of his estate than is now allowed by law, unless such person has no lawful wife or issue living at the time of his death; nor shall such illegitimate child inherit, in case of intestacy, from the adopted parent any greater portion of his estate than may be given to such child by deed or will when such intestate leaves a widow or lawful issue surviving him: *Provided, further*, That where the custody of any child is given to any person or persons by any orphan or foundling home, and said person or persons desire to adopt said child, they may file their petition in accordance with the provisions of this chapter in the county where said petitioner or petitioners reside, and it shall not be necessary to prove who is the father or mother of said child.

NOTE ON MARRIAGES OF FORMER SLAVES.—Marital cohabitation (of colored persons) previous to emancipation recognized and issue declared legitimate. (Secs. 3755, 3756.)

SOUTH DAKOTA.

Revised Codes, 1903.

Civil Code.

SECTION 63. Where the marriage is annulled on the ground that a former husband or wife was living, or on the ground of insanity, children begotten before the judgment are legitimate, and succeed to the estate of both parents.

Void marriages.

Divorce.

SEC. 81. When a divorce is granted for the adultery of the husband, the legitimacy of children of the marriage, begotten of the wife before the commencement of the action, is not affected.

SEC. 82. When a divorce is granted for the adultery of the wife, the legitimacy of children begotten of her before the commission of the adultery is not affected; but the legitimacy of other children of the wife may be determined by the court, upon the evidence in the case. In every such case all children begotten before the commencement of the action are to be presumed legitimate until the contrary is shown.

PRESUMPTION OF LEGITIMACY. **SEC. 107.** All children born in wedlock are presumed to be legitimate.

SEC. 108. * * *

Legitimation.

A child born before wedlock becomes legitimate by the subsequent marriage of its parents.

SEC. 109. The presumption of legitimacy can be disputed only by the husband or wife, or the descendant of one or both of them. Illegitimacy in such case may be proved like any other fact.

SEC. 112.

Custody.

The mother of an illegitimate unmarried minor is entitled to its custody, services and earnings.

SEC. 138. The father of an illegitimate child, by publicly acknowledging it as his own, receiving it as such, with the consent of his wife if he is married, into his family, and otherwise treating it as if it were a legitimate child, thereby adopts it as such, and such child is thereupon deemed for all purposes legitimate from the time of its birth. * * *

Legitimation

Sec. 144. A guardian of the person or estate, or of both, of a child born, or likely to be born, may be appointed by will or by deed, to take effect upon the death of the parent appointing.

Guardianship.

2. If the child be illegitimate, by the mother.

Sec. 1096. Every illegitimate child is an heir of the person who, in writing, signed in the presence of a competent witness, acknowledges himself to be the father of such child; and in all cases is an heir of his mother; and inherits his or her estate, in whole or in part, as the case may be, in the same manner as if he had been born in lawful wedlock;

Inheritance; legitimation; void marriages and divorce.

but he does not represent his father or mother by inheriting any part of the estate of his or her kindred, either lineal or collateral, unless before his death his parents shall have intermarried, and his father after such marriage acknowledges him as his child, or adopts him into his family; in which case such child and all the legitimate children are considered brothers and sisters, and on the death of either of them, intestate, and without issue, the others inherit his estate, and are heirs, as hereinbefore provided, in like manner as if all the children had been legitimate; saving to the father and mother, respectively, their rights in the estates of all the children in like manner as if all had been legitimate. The issue of all marriages null in law, or dissolved by divorce, are legitimate.

Sec. 1097. If an illegitimate child, who has not been acknowledged or adopted by his father, dies intestate, without lawful issue, his estate goes to his mother, or, in case of her decease, to her heirs at law.

Inheritance.

Code of Civil Procedure.

Sec. 807. When an unmarried woman who shall be pregnant or delivered of a child, which by law would be deemed a bastard, shall make complaint to a justice of the peace of the county where she may be so pregnant or delivered, or the person accused may be found, and shall accuse, under oath or affirmation, a person with being the father of such child, it shall be the duty of such justice to issue a warrant against the person so accused and cause him to be brought forthwith before him, or in his absence any other justice of the peace in such county.

Illegitimacy proceedings.

Sec. 808. Upon his appearance it shall be the duty of such justice to examine the woman upon oath or affirmation, in the presence of the man alleged to be the father of the child, touching the charge against him. The defendant shall have the right to controvert such charge, and evidence may be heard as in cases of trial before the justice court, if the justice shall be of the opinion that sufficient cause appears it shall be his duty to bind the person accused, in an undertaking with sufficient surety, to appear at the next term of the circuit court for such county to answer such charge. On neglect or refusal to give such undertaking, the justice shall cause such person to be committed to the jail of the county, there to be held to answer the complaint, which, with the warrant, shall be filed with the clerk of said court.

Sec. 809. The issue to be tried on such complaint shall be whether the person charged, as aforesaid, is the father of the child, which issue shall be tried by a jury. In any hearing or examination or trial under this article evidence of the previous unchastity of the female shall be admissible.

Sec. 810. If, at any term of such court when the case stands for trial, the woman be not delivered, or is unable to attend, the court shall postpone the trial, and order an undertaking to be given by the person charged as aforesaid, with sufficient sureties, for his appearance at the next term of court, and on neglect or refusal to furnish such undertaking, such person shall be committed to the county jail to answer such complaint.

Sec. 811. In case the issue be found against the defendant, he shall be adjudged by the order of the court to pay a sum of money not exceeding two hundred and fifty dollars for the first year after the birth of such child, and not exceeding one hundred and fifty dollars yearly for ten years succeeding said first year, for the support, maintenance and education of such child, and shall be adjudged to pay the costs of prosecution; and he shall be required by said court to give an undertaking with sufficient sureties, to be approved by the judge of said court, for the payment of such sums of money, which undertaking shall be made payable to the State of South Dakota, and conditioned for the due and faithful payment of said yearly sum in quarterly installments to the clerk of the court.

Sec. 812. In case the defendant shall refuse or neglect to give such undertaking as may be ordered by the court, he shall be committed to the jail of the county, there to remain until he shall comply with such order or until otherwise discharged by due course of law.

SEC. 813. The money when received shall be laid out and appropriated for the support of the child in such manner as shall be directed by the court.

SEC. 814. Whenever default shall be made in the payment of a quarterly installment, or any part thereof mentioned in the undertaking, providing for the support of the child, the clerk of the circuit court of the county where such undertaking is filed, shall issue a notice to the principal and sureties thereon to appear before the circuit court of said county, on a day in term time, to show cause why judgment should not be rendered against them for the amount due and unpaid on such undertaking, which notice shall be served at least thirty days before the day fixed therein for the hearing. On the hearing of said notice the circuit court may render judgment against said principal and sureties, who have been served therewith, for the amount due and unpaid on such undertaking, and execution shall issue thereon for the collection of such judgment.

SEC. 815. Said circuit court shall also have power, in case of default in the payment of any installment of such an undertaking, to adjudge the principal in such undertaking guilty of contempt of said court by reason of the nonpayment, as aforesaid, and to order him to be committed to the county jail until the amount of such installment, together with all costs of said commitment, shall be paid, and the court may, from time to time require additional sureties on such undertaking.

SEC. 816. No commitment for a failure or refusal to give the undertaking for the support of a child herein required, or to pay the installments due thereon, shall continue longer than one year, if, at the expiration of that time, the person so committed shall satisfy the judge of the circuit court, upon proof to be reduced to writing and filed with the clerk of said court, that he is unable to give such undertaking or comply with the conditions thereof, as the case may be.

Political Code.

SEC. 2764. Legal settlements may be acquired in any county so as to oblige such

Residence.

county to relieve and support the persons acquiring such settlement, in case they are poor and stand in need of relief, as follows:

3. Illegitimate children shall follow and have the settlement of their mother at the time of their birth, if she then have any within this State; but neither legitimate nor illegitimate children shall gain a settlement by birth in the place where they were born, unless their parent or parents had a settlement therein at the time.

Penal Code.

SEC. 344. Every woman who endeavors either by herself or by the aid of others, to conceal the stillbirth of an issue of her body, which if born alive would be a bastard, or the death of any such issue under the age of two years, is punishable by imprisonment in a county jail not exceeding one year, or by a fine not exceeding one thousand dollars, or both.

SEC. 794. Every woman who, having been convicted of endeavoring to conceal the birth of any issue of her body, which, if born alive, would be a bastard, or the death of any such issue under the age of two years, subsequently to such conviction endeavors to conceal any such birth or death of issue of her body, is punishable by imprisonment in the State prison not exceeding five years and not less than two.

NOTE ON INCESTUOUS MARRIAGES.—The law applies to illegitimate relationship. (Civil Code, Sec. 38.)

NOTE ON ADOPTION.—The illegitimate mother is recognized in the consent requirement. (Civil Code, Sec. 131.)

TENNESSEE.

Thompson's Shannon's Code, 1918.

SECTION 2707. *Bastards; how supported.*—For the purpose of indemnifying the county against charges for the maintenance of bastards, the father, if he can be ascertained, is liable to proceedings as pointed out in Part IV, Title 5, Chapter 6 (secs. 7332-7353).

Support.

SEC. 2708. *Illegitimate child may be bound out; when.*—The county court may bind out illegitimate children in the same way as orphans, upon its satisfactorily appearing that the mother of such illegitimate children disregards their moral and mental culture, and either keeps or lives in a house of ill fame, and upon its further appearing that the condition of such children would be thereby bettered, although the mother may provide ordinary food and raiment for her children.

Apprenticeship.

SEC. 4166. *Estate of illegitimate; how inherited.*—When an illegitimate child dies intestate without child or children, husband or wife, his real and personal estate shall go to his mother; and if there be no mother living, then equally to his brothers and sisters by his mother, or descendants of such brothers and sisters.

SEC. 4167. *Who shall inherit illegitimate's estate.*—The estates, both real and personal, of illegitimate persons dying intestate in this State, leaving no relatives entitled by existing laws to his or her estate, shall go to such persons as would, had the intestate been legitimate, have been his or her heirs on his or her mother's side, in such way and proportions, and under the same rules, as provided by existing laws of descent of real and personal estate among legitimates who have no kin on the father's side.

SEC. 4169. *Illegitimate children inherit with legitimate.*—Where any woman shall die intestate, having a natural born child or children, whether she also leave a legitimate child or children, or otherwise, such natural born child or children shall take, by the general rules of descent and distribution, equally with the other child or children, the estate, real and personal, of his, her, and their mother; and, should either of such children die intestate, without child, his or her brothers and sisters shall, in like manner, take his or her estate.

SEC. 4229. *Legitimacy of children.*—The dissolution of the marriage shall not in void marriages and anyway affect the legitimacy of the children of the same.

SEC. 4322. *Bastard to be apprenticed.*—The court may, in like manner, apprentice every base-born child; if such child be a female, until she shall attain the age of twenty-one years.

SEC. 5402. *Jurisdiction.*—The circuit and county courts of this State have concurrent jurisdiction to change names, to legitimate, and authorize the adoption of children, on the application of a resident citizen of the county in which the application is made.

SEC. 5406. *Application to legitimate.*—The application to legitimate a child not born in lawful wedlock is made by petition, in writing, signed by the person wishing to legitimate such child, and setting forth the reasons therefor.

SEC. 5407. *Judgment.*—The court, if satisfied with the reasons, may, by order embodying the petition in full, and entered upon the minutes of the court, declare such child legitimate.

SEC. 5408. *Effect.*—The effect of the legitimation is to create the relation of parent and child between the petitioner and person legitimated, as if the latter had been born to the former in lawful wedlock.

SEC. 5412. *Name may be changed.*—In cases of legitimation and adoption, the name of the person sought to be legitimated or adopted may be changed by proper prayer for that purpose inserted in the petition.

SEC. 6040. *The [county] court has also original jurisdiction over bastardy and bastards, and general supervision of the latter.*

SEC. 7332. *Justice may cause woman to be brought before him.*—Any justice of the peace, upon his own knowledge, or information made to him, that any single woman within his county is delivered of a living child, may cause such woman, at any time after the expiration of thirty days from the delivery, to be brought before him to be examined on oath touching the father.

SEC. 7333. *Proceedings on her refusal to declare the father.*—If, upon such examination, she refuses to declare the father, she shall be required to give sufficient security to keep such child from being chargeable on the county, or be committed to jail until she declare the father or give the security required, or is otherwise discharged by law.

SEC. 7334. *Warrant for putative father.*—But if she, upon oath, accuse any man of being the father of such illegitimate child, either at the examination referred to in the preceding section or upon voluntary complaint before or after the birth of the child, the justice shall issue a warrant against such person, and cause him to come before him.

SEC. 7335. *Who shall be bound over or committed.*—It is the duty of the justice, upon such person being brought before him, to bind him, in the sum of two hundred and fifty dollars, with good sureties, to appear at the next term of the county court of said county to answer said complaint, or to commit such person to jail until the required bail is given or he is otherwise discharged by law.

SEC. 7336. *Proceedings returned to county court.*—The magistrate will return the complaint or accusation, with the bond, if given, to the county court on or before the next term thereafter, for further proceedings.

SEC. 7337. *Capias.*—If the person charged is not found, or has removed from the county, the clerk of the county court, upon the complaint or accusation being returned

to the court, shall issue a *capias* to any county in the State where such person may probably be found, to be executed like similar process in criminal cases.

SEC. 7338. *Bail*.—Upon the execution of such process, the defendant may give bail to the officer for his appearance before the county court to answer the charge, in the same way as if he had been brought before a magistrate as hereinbefore provided.

SEC. 7339. *Judgment on bail bond*.—The county court is authorized to take judgment upon such bonds, and enforce their collection.

SEC. 7340. *Continuance*.—If the person is bound over, and appears before the child is born, the court may continue the complaint upon recognizance of the defendant until the woman is delivered.

SEC. 7341. *Failure to appear*.—If the person is bound over or recognized to appear at the county court, and fails to appear, the court shall have the defendant called out upon his undertaking or recognizance, and cause a *scire facias* to issue, requiring him to appear at the next or any ensuing term of the court, and show cause why judgment should not be rendered against him or his sureties; and, if the defendant fail to appear or to show cause, the court shall render final judgment against him and his sureties for the full amount of the penalties, and issue execution forthwith.

SEC. 7342. *Issue*.—Upon the hearing before the county court, the person so complained against or accused as aforesaid, shall be adjudged the reputed father of the child, unless he file his affidavit clearly setting forth that justice requires an issue to be made to try the truth of such charge, in which case it is the duty of the court to hear proof and determine the matter as right and justice may appertain.

SEC. 7343. *Affidavit; when evidence*.—If the affidavit required by the last section deny sexual intercourse with the mother of the child from the first of the tenth month to the first of the sixth month next before the birth of such child, it shall be received as evidence on the trial.

SEC. 7344. *Proceedings in name of State*.—The proceedings in bastardy are conducted in the name of the State as plaintiff and the accused as defendant, and are intended for the indemnity of counties against the charge of supporting bastards.

SEC. 7345. *When defendant found guilty*.—If the accused be found guilty, either upon default, hearing, or confession, he shall be charged with the maintenance of the child in such sum or sums, within the limits of the next section, and in such manner as the court may direct, and with the costs of suit, and shall be required to enter into bond, with good security, conditioned to save the county and all other counties in the State from all charges toward the maintenance of the child.

SEC. 7346. *Allowance*.—The allowance for the support of an illegitimate child shall not, for the first year after the birth of such child, exceed forty dollars; for the second year, thirty dollars; and for the third year, twenty dollars, after the expiration of which time the court shall dispose of such child in the manner most conducive to its interest, either by giving it to the reputed father or binding it out to some suitable person, in their discretion.

SEC. 7347. *When court shall provide*.—But the county court shall make no provision for a bastard, except when he is or is likely to become a county charge.

SEC. 7348. *Provision for support to be expended by commissioners for the poor*.—The provision made for the support of a bastard child shall not be the property of the mother, but shall go into the hands of the commissioners for the poor, to be expended for the use of the child, it being the object of the provision for a bastard's support, to indemnify the county against the same.

SEC. 7349. *Enforcement of judgment*.—The court is vested with full power to enforce its judgment by the collection of money forthwith by execution, or by the collection of installments as they respectively fall due, or otherwise according to the exigencies of the particular case.

SEC. 7350. *Appeal*.—Either party is entitled to an appeal to the circuit court, where the case may be tried by jury upon the issue of guilty or not guilty, as in other cases of issues of fact.

SEC. 7351. *Remanding cause*.—If the judgment below against the accused is sustained, the cause will be remanded to the county court for further proceedings.

SEC. 7352. *Costs if issued found for defendant*.—If the issue in either court is found in favor of the defendant, judgment for costs may be given against the person at whose instance the proceedings were instituted, or against the county.

SEC. 7353. *Effect of legitimization of child*.—The judgment of the court against the defendant is not satisfied, nor the defendant and his sureties exonerated from liability by the defendant subsequently legitimizing the child according to law.

NOTE ON MARRIAGES OF FORMER SLAVES.—Marital cohabitation of former slaves is recognized and issue legitimized. (Secs. 4179, 4198.)

NOTE ON BIRTH REGISTRATION.—The certificate of birth states whether the child is legitimate or illegitimate. (Secs. 3118a-51.)

TEXAS.

Revised Civil Statutes, 1911.

ARTICLE 2472. *Illegitimate children and issue of void marriages.*—Where a man, having by a woman a child or children, shall afterward intermarry with such woman, such child or children, if recognized by him, shall thereby be legitimated and made capable of inheriting his estate.

Legitimation; void marriages.

The issue also of marriages deemed null in law shall nevertheless be legitimate.

ART. 2473. *Bastards inherit from mother.*—Bastards shall be capable of inheriting from and through their mother, and of transmitting estates, and shall also be entitled to distributive shares of the personal estates of any of their kindred, on the part of their mother, in like manner as if they had been lawfully begotten of such mother.

Inheritance.

ART. 4615. *Issue legitimated.*—In cases where persons have so intermarried agreeably to the custom of the times, and where husband or wife has since died, then and in that case the issue of such marriages are hereby legitimated.

Legitimation.

ART. 4636. *Legitimacy of children; parties may marry again.*—A divorce from the bonds of matrimony shall not in any wise affect the legitimacy of the children thereof; and either party may, after the dissolution of the marriage, marry again.

Divorce.

NOTE.—See arts. 4614–4616—acts validating certain marriages and legitimizing issue.

NOTE ON BIRTH REGISTRATION.—Certificate states whether legitimate or illegitimate. (Laws 1917, ch. 129, sec. 9.)

UTAH.

Compiled Laws, 1917.

SECTION 19. *Illegitimate child adopted by acknowledgment.*—The father of an illegitimate child, by publicly acknowledging it as his own, receiving it as such with the consent of his wife, if he is married, into his family, and otherwise treating it as if it were a legitimate child, thereby adopts it as such, and such child is thereupon deemed for all purposes legitimate from the time of its birth. The foregoing provisions of this title do not apply to such an adoption.

Legitimation.

SEC. 380. *Complaint to be made to justice of the peace—Warrant.*—When an unmarried female, pregnant or delivered of a child, which by law will be deemed a bastard, shall make complaint to a justice of the peace within the county where she may be so pregnant or delivered, or where the person accused may be found, and shall accuse, under oath or affirmation, a person with being the father of such child, it shall be the duty of such justice to issue a warrant against the person so accused and cause him to be brought forthwith before him, or, in his absence, before any other justice of the peace in such county.

Illegitimacy proceedings.

SEC. 381. *Examination of plaintiff—Rights of defendant.*—Upon his appearance, it shall be the duty of the county attorney to examine the woman upon oath or affirmation before the justice and in the presence of the man who is alleged to be the father of the child, touching the charge against him. The defendant shall have the right to controvert such charge, and evidence may be heard as in other cases. If the justice shall be of the opinion that there is probable cause to believe that the defendant is the father of such bastard, it shall be his duty to bind the defendant so accused with such sufficient surety, to appear before the district court and answer such charge, as in other cases. If the defendant shall neglect or refuse to give bonds as security as aforesaid, said justice shall cause such defendant to be committed to the jail of the county.

SEC. 382. *Information to be filed.*—In all cases of commitment under this act, an information shall be filed in the district court as in other cases.

SEC. 383. *Continuance of case—Defendant must give security for appearance.*—If the defendant plead not guilty to such information and the case be set for trial on the issue of fact, and if at the day appointed for such trial the woman be not delivered or unable to attend, the court may continue the case, but shall require the defendant to give such security as the court may deem just to insure his presence to answer such information after the birth of the child; and if such mother be not able to attend on the day appointed, said security shall remain in full force until she is able to attend.

SEC. 384. *The mother and defendant competent witnesses.*—On the trial of every issue of fact as to the bastardy, the mother and defendant shall be admitted as competent witnesses, and the credibility shall be left to the jury.

SEC. 385. *In case of acquittal, woman to pay costs.*—If upon the trial of the issue aforesaid, the jury shall find that the child is not the child of the defendant or alleged father, then the judgment of the court shall be that the defendant be discharged. In such case the woman making the complaint shall pay the costs of the prosecution, and judgment may be entered therefor and execution issued thereon, as in other cases.

SEC. 386. *Penalty, if defendant be found guilty—Bond.*—In case the issue be found against the defendant or reputed father, or whenever he shall in open court have confessed the truth of the accusation against him, he shall be condemned by the order and judgment of the court to pay a sum of money not exceeding \$200 for the first year after the birth of such child, and a sum not exceeding \$150 yearly for seventeen years succeeding said first year for the support and maintenance and education of such child; and shall, moreover, be adjudged to pay all the costs of the prosecution, for which costs execution shall issue as in other cases, and the said reputed father shall be required by said court to give bond with sufficient security, to be approved by the judge thereof, for the payment of such sum of money as shall be awarded by said court as aforesaid, which said bond shall be made payable to the State of Utah, conditioned for the due and faithful payment of said yearly sum in equal quarterly installments to the clerk of said court; and the said bond shall be filed and preserved by the clerk of said court.

SEC. 387. *Defendant failing to give security must be committed to jail.*—In case the defendant shall refuse or neglect to give such security as will be ordered by the court, he shall be committed to the jail of the county, there to remain until he shall comply with such order, or until otherwise discharged in due course of law. Any person so committed may be discharged for insolvency or inability to give bond: *Provided* That such discharge shall not be made within one year after such commitment.

SEC. 388. *Disposition of money.*—The money, when received, shall be laid out and appropriated for the support of such child in such manner as shall be directed by the court, but when a guardian be appointed for such bastard, the money arising from such bond shall be paid over to such guardian.

SEC. 389. *Default in payment of installments—Procedure.*—Whenever default shall be made in the payment of a quarterly installment or any part thereof mentioned in the bond provided for in the foregoing section, the judge of the district court for the county wherein such bond is filed, shall, at the request of the mother, guardian or any other person interested in the support of such child, issue an order to show cause to the principal and sureties of said bond, requiring them to appear on the day named in said order, and show cause, if any they have, why execution should not issue against them to the amount of the installment or installments due and unpaid on said bond, and that such order to show cause may be served by the sheriff or any constable within the county in which such principal or surety resides or may be found, and such service shall be made at least five days before the return day named in such order. If the amount due on such installment or installments shall not be paid before the time mentioned in such order to show cause, the said court shall render judgment in favor of the State against the principal and the sureties who have been served with such order for the amount unpaid on the installment or installments due upon the said bond, together with the costs of such proceeding, and execution shall issue therefor against the judgment debtors as in other cases, for the amount of said judgment and costs.

SEC. 390. *Reputed father guilty of contempt; when.*—Any judge shall have power, in case of default in the payment, when due, of any installment or installments thereof, according to the condition of the said bond, to adjudge the reputed father of such child guilty of contempt by reason of nonpayment of any installment or installments aforesaid, and may order such defendant to be committed to the jail of the county until the amount of such installment or installments as may be due shall be fully paid, together with the costs of commitment. The commitment of such reputed father shall not operate to stay the execution upon such judgment as aforesaid.

SEC. 391. *Custody of child.*—The reputed father of a bastard shall not have the right to the custody or control of such child if the mother is living and wishes to retain such custody and control, until after it shall have arrived at the age of ten years, unless, upon petition to the district court for the county in which the mother resides, it shall, upon full hearing, after notice to the mother, be made to appear that said mother is not a suitable person to have control and custody of such child.

SEC. 392. *Bond becomes void; when.*—If such bastard child shall not be born alive, or, being born alive, should die, and the fact shall be suggested upon the records of said court, then such bond shall be void.

SEC. 393. *Intermarriage of mother and reputed father legitimatizes child.*—If the mother of any bastard child and the reputed father shall at any time after its birth

intermarry, said child shall in all respects be deemed to be legitimate, and the bond for the support of said child shall thereupon become void.

Sec. 394. *Prosecution must be brought within four years.*—No prosecution under this title [secs. 380–395] shall be brought after four years from the birth of such bastard child: *Provided*, That the time for which the person accused shall be absent from the State shall not be computed.

Sec. 395. *Release of reputed father.*—The mother of a bastard child, before or after its birth, may release the reputed father of such child from all legal liability on account of such bastard, upon such terms as may be consented to in writing and approved by the judge of the district court for the county in which the mother resides: *Provided*, That a release obtained from such mother in consideration of the payment to her of a sum of money less than \$500 shall not be a bar to a suit for bastardy against such father, and if, after such release is obtained, suit is instituted against such father and the issue be found against him, he shall be entitled as a set off for the amount so paid, and it shall be accredited to him as a first payment, or payments: *And provided, further*, That such father may compromise all his legal liability on account of such bastard with the mother thereof by paying to her a sum not less than \$500.

Sec. 1400x44. *Lawful settlement—Definitions.*—* * * * *

1. * * * Illegitimate children shall follow and have the settlement of their mother, at the time of their birth, if she have any within the State, but neither legitimate nor illegitimate children shall gain a lawful settlement by birth in the place where they were born, unless their parent or parents had the settlement therein at the time.

Sec. 2968. *Children of bigamous marriages contracted in good faith.*—When a marriage is contracted in good faith and with the belief of the parties that a former husband or wife, then living and not legally divorced, was dead or legally divorced, the issue of such marriage, born or begotten before notice of the mistake, shall be the legitimate issue of both parents.

Sec. 6413. *Illegitimate children to inherit; when.*—Every illegitimate child is an heir of the person who acknowledges himself to be the father of such child; and in all cases is an heir of his mother; and inherits his or her estate, in whole or in part, as the case may be, in the same manner as if he had been born in lawful wedlock. The issue of all marriages null in law or dissolved by divorce are legitimate.

Sec. 6414. *Inheritance from illegitimate child.*—If an illegitimate child dies intestate, without lawful issue, his estate goes to his mother, or, in case of her decease, to her heirs-at-law.

Sec. 6428. *Inheritance by children of polygamous marriages.*—Sec. 6413 included when first enacted and effectually operated at all times thereafter and now operates to include the issue of bigamous and polygamous marriages, and entitles all such issue to inherit, as in said section provided, except such as are not included in the proviso of section 11 of the act of Congress called the "Edmunds-Tucker Act," entitled "An act to amend an act entitled, 'An act to amend section 5352' of the Revised Statutes of the United States, in reference to bigamy and for other purposes." (See *infra*, United States.)

Sec. 6430. *Polygamous issue born on or prior to January 4, 1896, legitimated.*—The issue of bigamous and polygamous marriages, heretofore contracted between members of the Church of Jesus Christ of Latter-day Saints, born on or prior to the 4th day of January, A. D. 1896, are hereby legitimated; and such issue are entitled to inherit from both parents, and to have and enjoy all rights and privileges to the same extent and in the same manner as though born in lawful wedlock. (See *infra*, United States.)

NOTE ON ADOPTION LAW.—The illegitimate mother is recognized in the consent requirement. (Sec. 13.)

NOTE ON INCESTUOUS MARRIAGES.—The law applies to illegitimate relationships. (Sec. 2966.)

NOTE ON BIRTH REGISTRATION.—Certificate states whether legitimate or illegitimate. (Sec. 5052.)

VERMONT.

General Law, 1917.

SECTION 3418. *Illegitimate children and mother to inherit of each other.*—Illegitimate children shall inherit the estate of their mother as if born in lawful wedlock; and the estate of an illegitimate person dying intestate and leaving no issue, nor husband nor wife, shall descend to the mother, and, if the mother is dead, through the line of the mother as if the person so dying were born in lawful wedlock.

SEC. 3419. *Legitimized by parents' marriage.*—When the parents of an illegitimate

Legitimation. child intermarry, the child, if recognized by the father as his

SEC. 3546. *Issue illegitimate.*—Upon the dissolution, by a decree of nullity, of a marriage prohibited on account of consanguinity or affinity between the parties, the issue of the marriage shall be illegitimate.

SEC. 3553. *Children to inherit from sane parent.*—Children of a marriage annulled on the ground of lunacy or idiocy, shall succeed like legitimate children to the real and personal estate of the parent who was of

sound mind.

SEC. 3597. *Court may make orders as to children.*—When a marriage is annulled or a divorce granted, and at any time thereafter, upon petition of either of the parents, the court may make such other or further decree as it deems expedient concerning the care, custody and maintenance of the minor children of the parties, and may, on the petition of either of the parents, annul, vary or modify such order.

SEC. 3636. *Mother guardian of illegitimate child.*—The mother of an illegitimate minor

Guardianship. child shall be guardian of such child until another is appointed.

SEC. 3732. *Minors, under fourteen, how bound.*—Children, under the age of fourteen years may be bound by their father, or if he is dead or incompetent, by their mother, or by their legal guardian; and, if illegitimate, they may be bound by their mother; and, if they have no parent competent to act and no guardian, they may bind themselves, with the approbation of the selectmen of the town where they reside.

SEC. 3733. *Same, over fourteen, how bound.*—Minors, over the age of fourteen years; may be bound in the same manner; but when they are bound by their parent or guardian, the consent of the minor shall be expressed in the indenture, which shall be signed by him.

SEC. 3757. *Minor, how adopted.*—If the person sought to be adopted is a minor, the same proceedings shall be had, except that the instrument shall be signed, sealed and acknowledged on the part of the minor by one of his parents, or, if under guardianship, by his guardian, or, if a married woman under age, by such woman and her husband; and if the minor has no parent, guardian or husband, or his parents, guardian or husband have abandoned his care and support, or are, in the opinion of the probate court, incompetent to have the care and custody of the minor, the instrument may, with the consent of the probate court, be signed, sealed and acknowledged on the part of the minor by the first selectman of the town or the mayor of the city in which such minor resides. If the mother of such minor is the wife of the person adopting, she may execute the instrument on the part of the minor, notwithstanding her coverture. If the minor is an illegitimate child whose mother is dead and the person adopting is the natural father of said child, such instrument need not be signed, sealed or acknowledged on the part of the minor, but the probate court after adoption may make such orders concerning the care, custody, control and guardianship of such minor as the interest of said minor may require.

SEC. 3608. *Warrant to issue on complaint of woman.*—When a single woman is delivered of a bastard child, or declares herself to be with child, which, if born alive, will be a bastard, and charges a person in writing, under oath, before a justice or a municipal or city judge of the county in which she resides, with having begotten such child, such magistrate shall, on application made by such woman, issue his warrant and cause such person to be apprehended and brought before him or another such magistrate of the same county, which warrant shall run into any county in the State and may be executed by any person to whom the same is lawfully directed.

SEC. 3609. *Same; security for costs.*—Before the warrant issues, such woman shall give security for costs to the person so charged, as in writs of attachment.

SEC. 3610. *Accused to give bail for appearance.*—The magistrate before whom the person is brought, shall require him to enter into a recognizance to such woman with sufficient sureties, in a sum not exceeding five hundred dollars nor less than two hundred and fifty dollars, conditioned that he will personally appear before the county court next to be held within and for the same county, and answer to such complaint and abide the order of the court thereon.

SEC. 3611. *Accused to be committed on refusal to give bail.*—If such person does not enter into the recognizance, such magistrate shall order him to be committed to jail in the same county, until he enters into the recognizance before one of the judges of the county court of the county, or is otherwise discharged by law.

SEC. 3612. *Magistrate to return papers to court.*—Such magistrate issuing the warrant shall, on request of such woman, return to the clerk of the county court, on or

before the first day of the term at which the person is recognized to appear, the original complaint and warrant, with a true record of the doings of the magistrate thereon.

SEC. 3613. *Issue—Trial by jury—Costs.*—Upon trial of the cause in the county court, the issue shall be whether the defendant is guilty or not guilty, and shall, at the request of either party, be tried by a jury; and if the verdict or judgment of the court is that the defendant is not guilty, he shall be discharged and have judgment and execution for his costs.

SEC. 3614. *Woman compelled to testify.*—On trial of such issue, the woman shall be a competent witness, and may be compelled to testify, unless rendered incompetent by conviction of a crime which by law disqualifies her from being a witness in any other cause; but her testimony in any of the proceedings under this chapter shall not be used against her in a criminal prosecution, except for perjury committed while so testifying.

SEC. 3615. *Same; limitation.*—A woman shall not be compelled to testify or answer questions as to her pregnancy until thirty days after her delivery.

SEC. 3616. *Person proved father; how chargeable.*—If the verdict or judgment of the court, on the trial, is that the defendant is guilty, he shall be adjudged to be the father of the child, and shall stand charged with its support, with the assistance of the mother, in such manner and proportion as the court judges proper, and for such time as the child is likely to be unable to support itself, and no longer, and shall also pay to the mother such proportion of the expenses already accrued in the premises as the court deems just, and costs, at such time as the court directs.

SEC. 3617. *Father to give bond to perform orders.*—Such father shall, during the term of the court in which the orders are made, enter into a recognizance before the court, with sufficient sureties, to the mother of the child, in such sum as the court directs, conditioned that he will abide and perform the orders of the court so made in the premises; and, on entering into such recognizance, the one entered into before the magistrate shall be void.

SEC. 3618. *Same—Commitment for neglect.*—If the father does not enter into such recognizance, he may be committed to jail until he enters into the recognizance and pays such sums of money as are then due and payable under the orders of the court, or until he is discharged by the mother, or by law. Such recognizance, taken after the commitment, shall be entered into before one of the judges of the county court, who shall return the same into court.

SEC. 3619. *Father refusing to make payments; execution to issue.*—If the father fails to pay the costs taxed, or any sums of money charged against him by order of the court, according to the terms thereof, the court before which the recognizance was entered into, or to which a recognizance taken by a single judge is returned, shall, from time to time, on motion of the mother or her executors or administrators, enter judgment on the recognizance, and award execution for the amount of money mentioned in such orders, as the same becomes due, against the father and his sureties; but twelve days' notice shall be given to the party against whom the motion is made, before the making thereof.

SEC. 3620. *Warrant may issue if execution not satisfied.*—If such execution is returned unsatisfied, because property of the father or his sureties can not be found, the clerk of the court from which the execution issued, may, upon request of the mother, issue a warrant to commit the father to jail; and, upon such warrant, he may be so committed in the county where the judgment was rendered, unless he pays the sum due upon the execution, with costs, together with the costs on such warrant, and such other sums as are then due and payable under the orders of the court in the premises, and also enters into a new recognizance, with sufficient sureties, before one of the judges of the county court, conditioned that he will abide and perform the orders of the court, before made.

SEC. 3621. *New recognizance, etc.*—If the father is committed to jail under the preceding section, he shall there remain until he pays the sums therein provided, with costs of commitment, and enters into such recognizance, or until he is discharged by the mother, or by law. The recognizance shall be returned by the judge to the county court, and the mother shall be entitled to the same remedies thereon that are provided in the second preceding section.

SEC. 3622. *Accused to be discharged if woman miscarries, marries or dies.*—If a woman, charging a person as aforesaid, dies or is married before she is delivered of the child, or miscarries thereof, or was not pregnant at the time of declaring herself to be with child by such person, he shall be discharged from his recognizance by the county court, or be released from custody by a justice of the peace or a municipal or city judge of the county, by warrant under his hand, upon application and proof made to such court or magistrate.

SEC. 3623. *May conduct and take benefit of prosecution.*—The overseer of the poor of a town charged, or likely to be charged, with the support of a bastard child, may,

if the interest of the town requires, commence a prosecution in the name of the child's mother or control and manage a prosecution commenced by her; he may conduct such cause to final judgment and have all the rights of the mother as provided in this chapter, and shall apply the moneys received, exclusive of costs, for the support of the child. He shall not compromise such prosecution without the consent of the mother.

SEC. 3624. *File certificate of intention.*—The overseer shall not commence or manage such prosecution until he files with the magistrate issuing the warrant, or with the clerk of the county court, a certificate under his hand of his intention so to do and that he will indemnify the mother of the child from future costs in the premises.

SEC. 3625. *Woman neglecting to charge father may be cited before justice or municipal court.*—If a single woman delivered of a bastard child does not charge a person with being its father within thirty days after the child is born, as provided in this chapter, the overseer of the poor of the town charged, or likely to be charged, with the support of the child, may make a written complaint against her to a justice or a municipal or city judge of the county, setting forth the facts, and thereupon such magistrate shall issue his warrant to bring her before him to be examined upon oath.

SEC. 3626. *To prosecute person charged by woman on complaint.*—When a single woman is brought before such a magistrate, he shall take her examination in writing under oath, and thereupon by his warrant cause the person charged by her with being the father of her bastard child to be brought before him. The same proceedings shall thereafter be had in the name of such overseer, as though such woman had commenced the prosecution in her own name.

SEC. 3627. *No discharge of father, or compromise, without overseer's consent.*—A compromise made with, or discharge given to, a person charged under the preceding section, or made or given after the overseer has commenced a prosecution or taken upon himself the control or management of a prosecution commenced by the woman, shall not be valid as against the overseer, unless made with his consent.

SEC. 3628. *Overseer may enter and prosecute when mother dies pending suit.*—If the mother of a bastard child dies during the pendency of a prosecution under this chapter, the overseer of the poor of the town charged, or likely to be charged, with the support of the child, may prosecute or enter and prosecute the same, and cause the death of the mother to be suggested upon the record, and thereafter the prosecution shall proceed to final judgment in the name and for the benefit of the town.

SEC. 3629. *Orders and bail to be in favor of and for benefit of town.*—If the defendant is found guilty, the orders and recognizances for the payment of money for the support of the child, or costs of prosecution, or for securing the same, shall be made in favor of the town, and a recognizance taken to the mother of the child shall inure to the benefit of the town.

SEC. 3630. *Sums recovered; how used.*—The sums recovered by the town shall be expended for the support of the child; and, if the child ceases to be a town charge, any balance unexpended shall be returned to the putative father.

SEC. 3631. *Defendant found not guilty; to have costs.*—If, upon trial, the defendant is found not guilty, he shall be discharged, and have judgment and execution against the town for his costs.

SEC. 3632. *Powers to cease on woman giving security.*—If such woman or other person gives sufficient security for the support of the child and pays the costs and expenses for its support, the powers granted to the overseer by this chapter shall cease, and proceedings commenced by him shall be discontinued.

SEC. 2417. *Petition—Service and hearing.*—A person committed to jail under the orders of a court or by a warrant issued by the clerk thereof in illegitimacy proceedings. bastardy proceedings may apply to the county court of the county in which he is confined, by petition, praying for the privilege of taking the oath hereinafter set forth; and, after six months' imprisonment, he may apply to any justice of the supreme court in the same manner. Such petition, with an order to show cause, shall be served upon the complainant in such bastardy prosecution, and upon the overseer of the poor, if he has appeared to prosecute, at least twelve days before the term of the court, or the hearing before the justice; and the court or justice may hear the parties, and shall consider the aggravation of the prisoner's case and the extent of his confinement, and determine whether he is entitled to apply for the privilege of taking such oath, and if so, after what time.

SEC. 2418. *Application for discharge—Hearing—Oath.*—If the petition is granted, the prisoner may, after the time fixed by said court or justice, apply to the commissioners of jail delivery in the county for a discharge from imprisonment; and said commissioners, after giving notice to the opposite party before such examination, as provided in other cases in this chapter, shall, if they find on examination that such person has not property, except his wearing apparel, exceeding twenty dollars, administer to him the following oath:

"You solemnly swear that you have not estate, real or personal, exceeding twenty dollars, except your wearing apparel, and that you have not disposed of any of your

property for the purpose of defrauding the complainant in the proceedings on which you are committed. So help you God."

SEC. 2419. *Discharge; effect of.*—Upon taking such oath, the prisoner shall be discharged as other persons are discharged upon taking the poor debtor's oath, and shall thereafter be free from arrest or imprisonment upon an execution issued upon any judgment rendered in such bastardy proceedings or founded thereon; but the judgment shall remain in force, and the plaintiff may have execution against his property for nonpayment of orders of court or may sustain an action of contract thereon.

SEC. 2343. *Bailpiece—Bastardy proceedings.*—When a surety recognizes before a justice of the peace, or a judge of a municipal, city or county court, for the appearance before the county court of a person charged with being the father of a bastard child, the officer making the arrest upon the warrant, if the recognizance is entered into before a justice of the peace or a municipal or city judge, or the keeper of the jail in the county in which the principal is confined, if it is entered into before a judge of the county court, shall, if required, deliver to him a bailpiece.

SEC. 2344. *Warrant thereon.*—Upon presentation of a bailpiece to a justice of the peace, or a municipal or city judge, such magistrate shall issue to the surety a warrant directed to any sheriff or constable in the State, commanding him to assist such surety in apprehending the principal.

SEC. 2345. *Use of warrant.*—A surety may use such warrant when he has occasion to arrest the principal to surrender him in court in discharge of his bail on the original process or upon scire facias or to secure him until a term of the court in which he may be surrendered for that purpose.

SEC. 2346. *Commitment of principal.*—The officer apprehending the principal may commit him to jail in the county in which he was arrested on the original process or in the county in which the process is pending, agreeably to the direction in the warrant; and such commitment shall be considered as a commitment on the original process, if the same is pending.

SEC. 2347. *Delivering principal into court.*—A surety on mesne process may deliver the principal into court before or during the term at which final judgment is rendered on such process, in discharge of himself; and he may, at any time, commit the principal to jail so that he may be delivered into court.

SEC. 2348. *Principal committed for want of bail.*—When the principal is delivered into court, the court shall, unless the principal procures sufficient surety for his appearance, order him committed to jail, and such commitment shall be deemed a commitment on the original writ.

SEC. 2349. *Principal delivered in bastardy proceedings; when.*—A surety on the recognizance in a bastardy complaint may deliver the principal into court in discharge of his recognizance before the principal is adjudged to be the father of such bastard child and the court has made an order charging him with its support, but not after; and he may, before such adjudication and order, commit the principal to jail so that he may be delivered into court.

SEC. 2350. *Principal in bastardy proceedings may be committed.*—When the principal is delivered into court under the preceding section the court shall order him committed to jail, unless he enters into a recognizance before the court, with sufficient sureties, in the sum fixed by the order of the justice or judge, conditioned as provided by law in such cases, and such commitment shall be deemed a commitment on the original warrant.

SEC. 2351. *Surety may have warrant.*—A surety in a recognizance taken by a justice of a supreme court, a judge of a municipal, city or county court, a justice of the peace, a clerk of the supreme or county court, may make written application to the authority taking the recognizance for a warrant to apprehend the principal and commit him to jail. The authority taking the recognizance shall thereupon issue such warrant, directed to any sheriff or constable in the State, and, when the principal is committed to jail on such warrant, the bail shall be discharged.

SEC. 6804. *Mother; when guilty of felony if bastard found dead.*—A woman who is privately delivered of an illegitimate child, if such child is found

Concealment of births and deaths. dead under such circumstances as to create a strong presumption that it was born alive and came to its death by the premeditated and willful neglect, violence or procurement of the mother, shall be imprisoned in the State prison not more than three years or fined not more than two hundred dollars.

SEC. 6805. *Mother on trial for murder—Conviction for such felony.*—If, upon trial of a woman for the murder of an illegitimate child so found dead, the evidence is not, in the opinion of the jury, sufficient to prove murder, it may, upon sufficient evidence, find her guilty of the felony specified in the preceding section (sec. 6804); and, in that event, she shall be punished as there provided.

NOTE ON WORKMEN'S COMPENSATION LAW.—"Child" includes acknowledged illegitimate children. (Sec. 5759.)

VIRGINIA.

Code of 1904.

SECTION 2552. *When bastards take—When children of former slaves take.*—Bastards shall be capable of inheriting and transmitting inheritance on the part of their mother as if lawfully begotten. And the children of parents, one or both of whom were slaves at and during the period of cohabitation, and who were recognized by the father as his children, and whose mother was recognized by such father as his wife, and was cohabited with as such, and their descendants, shall be as capable of inheriting any estate whereof such father may have died seized or possessed, or to which he was entitled, as though such children had been born in lawful wedlock.

SEC. 2553. *When marriage legitimates children.*—If a man, having had a child or children by a woman, shall afterwards intermarry with her, such child or children, or their descendants, if recognized by him before or after the marriage, shall be deemed legitimate.

SEC. 2554. *Issue legitimate, though marriage null.*—The issue of marriages deemed void marriages and null in law or dissolved by a court shall nevertheless be legitimate.

NOTE ON BIRTH REGISTRATION.—Certificate states whether legitimate or illegitimate; also full name of father "except for illegitimate children." (Laws 1912, ch. 181, sec. 14.)

NOTE.—The desertion act (act of 1904) refers to children, but not to illegitimate children.

NOTE.—The Code of Virginia of 1874 had a chapter (121) "Of the maintenance of illegitimate children," providing for the usual type of bastardy proceedings. The Code of 1887 omits this chapter and repeals (sec. 4202) all acts of a general nature in force at the time of the adoption of the code from and after May 1, 1888. The present code contains no bastardy support law.

WASHINGTON.

Remington's Codes and Statutes, 1915.

SECTION 1345. *Illegitimate child; rights of.*—Every illegitimate child shall be considered as an heir to the person who shall in writing, signed in the presence of a competent witness, have acknowledged himself to be the father of such child, and shall in all cases be considered as heir of his mother, and shall inherit his or her estate, in whole or in part, as the case may be, in the same manner as if he had been born in lawful wedlock; but he shall not be allowed to claim, as representing his father or mother, any part of the estate of his or her kindred, either lineal or collateral, unless before his death his parents shall have intermarried, and his father, after such marriage, shall have acknowledged him as aforesaid, and adopted him into his family, in which case such child and the legitimate children shall be considered as brothers and sisters, and on the death of either of them intestate, and without issue, the others shall inherit his estate, and the heirs, as heretofore provided in like manner as if all the children had been legitimate, saving to the father and mother, respectively, their rights in the estates of all the said children, as provided heretofore, in like manner as if all had been legitimate.

SEC. 1346. *Property of illegitimate child; descent of.*—If any illegitimate child shall die intestate without lawful issue, his estate shall descend to his mother, or in case of her decease, to her heirs at law.

SEC. 7155. *Marriage by unauthorized person; effect of.*—* * * Illegitimate children become legitimate by the subsequent marriage of their parents with each other.

NOTE ON BIRTH REGISTRATION.—Certificate states whether legitimate or illegitimate. (Sec. 5435.)

NOTE ON WORKMEN'S COMPENSATION LAW.—"Child" includes an illegitimate child legitimated prior to the injury. (Sec. 6604-3, as amended by Laws 1917, ch. 120, sec. 1.)

WEST VIRGINIA.

Barnes' Code, 1916.

Ch. 78. Descent and distribution.

SECTION 5. Bastards inherit from mother.—Bastards shall be capable of inheriting and transmitting inheritance on the part of their mother, as if lawfully begotten.

Inheritance.

SEC. 6. Legitimation of children by marriage.—If a man, having had a child or children by a woman, shall afterwards intermarry with her, such child or children, or their descendants, if recognized by him

Legitimation.

before or after the marriage, shall be deemed legitimate.

SEC. 7. Issues of marriages void or dissolved.—The issues of marriages deemed null in law, or dissolved by a court, shall nevertheless be legitimate.

Void marriages.

Ch. 80. Maintenance of illegitimate children.

SEC. 1. Accusation—Examination—Warrant—Recognizance—Proceedings by married woman.—Any unmarried woman may go before a justice of the

Illegitimacy proceedings.

county in which she has resided for the preceding year, and accuse any person of being the father of a bastard child of which she has been delivered. The said justice shall examine her under oath, and reduce her examination to writing and sign it. On such examination, unless the child be three years old or upward, the justice shall issue a warrant, directed to the sheriff of, or a constable in any county where the accused may be, requiring him to be apprehended and taken before a justice of the county in which he may be found; and it shall be the duty of such justice to require the accused to enter into a recognizance, with one or more good securities, in a sum not less than three hundred dollars nor more than five hundred dollars, conditioned for his appearance at the next term of the circuit court of the county in which such warrant issued, to answer said charge, and to abide by and perform the order of the court in relation thereto. If a married woman live separate and apart from her husband for the space of one year or more, and shall not at any time during such separation, cohabit with her said husband she may, if she be delivered of a child at any time after the said one year, and while such separation continues, accuse any person, other than her husband, of being the father of such child, in like manner, and the same proceedings shall thereupon be had, as if she were an unmarried woman.

SEC. 2. Same—Continuance.—Should the court continue the case at the first or any subsequent term, the recognizance shall continue in force until the final judgment, unless the accused, if a new recognizance be required, shall give the same or be committed to jail.

SEC. 3. Proceedings; in whose name conducted.—After such accusation shall have been made, proceedings thereupon may be had in the name of the woman or, if the court so order, in the name of the county court.

SEC. 4. Trial—Jury—Order for support—Bond—Commitment—Discharge—Costs.—If the accused appear and plead not guilty, the issue shall be tried by a jury, if not waived by the parties, and if he be found guilty, the court shall order him to pay to the county court for the maintenance of the child, such sums as it may deem proper for each year, until such time as the court may appoint, unless it sooner die; and shall order the father to give a bond in such penalty and with such sureties as it may deem sufficient for the performance of said order; and shall order him to jail until such bond be given in the court or filed in the clerk's office with sufficient sureties, to be approved by the court or clerk, or the woman and the said county court consent to his discharge, or until he be discharged by an order of the circuit court or county court, the court being satisfied that the prisoner can not pay the judgment of the court or give the bond required, or he be otherwise legally discharged; and if found not guilty by the jury, he shall be discharged, and shall recover his costs against the party in whose name the proceedings are had.

SEC. 5. Recovery on bond.—As often as the condition of such bond is broken, a motion may be made before the circuit court of the county and judgment may be given in the name of the county court, against the said father and his sureties, and against his and their personal representatives, for the money due, with lawful interest thereon from the time or times when the same ought to have been paid.

SEC. 6. Prosecuting attorney to appear for complainant—Fee.—The prosecuting attorney for the county shall appear on behalf of the woman or of the county court in every case under this chapter, and if judgment be given against the father, there shall be included in the costs a fee of ten dollars to said attorney.

Laws of 1917, ch. 51. An act relating to desertion or nonsupport of wife and children, providing punishment therefor, directing payment for support of wife or children, and authorizing extradition of persons accused of its violation

SEC. 1. Any husband who shall, without just cause, desert or wilfully neglect or refuse to provide for the support and maintenance of his wife in destitute or necessitous circumstances; or any parent who shall, without lawful excuse, desert or wilfully neglect or refuse to provide for the support and maintenance of his or her (legitimate or illegitimate) child or children, under the age of sixteen years, in destitute or necessitous circumstances, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding one year with hard labor, or both; and if a fine be imposed and not paid, the court may also direct the county court to cause such husband or parent to labor on the roads or other public improvements of the county, for which it shall allow the sum of not less than fifty cents or more than one dollar per day (but such allowance shall not be construed as a fine or part of the sentence of the court), and such allowance shall be paid by the county court to the wife, or to the guardian, curator, custodian or trustee of the said minor child or children, as the circuit court may order.

SEC. 2. Proceedings under this act may be instituted upon complaint made under oath or affirmation by the wife or child or children, or by any other person. Juvenile courts shall have original and concurrent jurisdiction with circuit, intermediate and criminal courts, in all cases arising under this act.

The complaint mentioned in this section shall be sufficient if it be in form or effect as follows:

State of West Virginia, County of, to wit: upon oath complains that on the day of, 19.., and from said date to the date of this complaint, in the said county, did without just cause (here state some one or more of the grounds mentioned in section one of this act) and the said therefore prays that the said may be apprehended and held to answer the said complaint, and dealt in relation thereto as the law may require.

On the day of, 19.. the said made oath to the truth of the foregoing complaint before the undersigned.

Judge of the Court of County, West Virginia.

The clerk shall enter said complaint in the record book of the juvenile court of said county, and the court or judge thereof in vacation, shall make an order reciting the grounds of the complaint, for the arrest of the person against whom said complaint is made and shall issue a warrant directed to the sheriff of said county for the apprehension of such person, and said warrant shall be sufficient if in form or effect as follows:

State of West Virginia, County of, to wit:

To the sheriff of said county:

Whereas of said county, has this day made complaint and given information on oath before the undersigned, that of said county, on the day of, 19.., and from said date to the date of said complaint, in said county, did without just cause (here set out the grounds mentioned in said complaint). These are therefore, in the name of the State of West Virginia, to command you forthwith to apprehend and bring said into court or before the judge thereof in vacation, to answer the said complaint, and to be further dealt with according to law.

Given under my hand this day of, 19....

Judge of the Court of County, West Virginia.

SEC. 3. At any time before the trial, upon petition of the complainant and upon notice to the defendant, the court or a judge thereof in vacation, may enter such temporary order as may seem just, providing for the support of the deserted wife or children, or both *pendente lite*, and may punish for violation of such order as for contempt.

SEC. 4. Before the trial, with the consent of the defendant; or at the trial, on entry of a plea of guilty; or after conviction, instead of imposing the penalty hereinbefore provided, or in addition thereto, the court in its discretion, having regard to the circumstances, and to the financial ability or earning capacity of the defendant, shall have the power to make an order, which shall be subject to change by the court from time to time, as circumstances may require, directing the defendant to pay a certain sum periodically to the wife, or to the guardian, curator or custodian of the said minor child or children, or to an organization or individual, approved by the court as trustee, and to release the defendant from custody on probation, upon his or her entering into a recognizance, with or without surety, in such sum as the court or a judge thereof in vacation may order and approve. The condition of the recognizance shall be such that if the defendant shall make his or her personal appearance in court whenever ordered to do so, and shall further comply with the terms of such order of support, or of any subsequent modification thereof, then such recognizance shall be void, otherwise in full force and effect.

SEC. 5. If the court be satisfied by information and due proof under oath that the defendant has violated the terms of such order, it may forthwith proceed with the trial of the defendant under the original charge, or sentence him or her under the original conviction, or enforce the suspended sentence, as the case may be. In case of forfeiture of a recognizance, and enforcement thereof by execution, the sum recovered may, in the discretion of the court, be paid in whole or in part to the wife, or to the guardian, curator, custodian or trustee of the said minor child or children, as the court may order.

SEC. 6. No other or greater evidence shall be required to prove the marriage of such husband and wife, or that the defendant is the father or mother of such child or children, than is or shall be required to prove such facts in a civil action. In no prosecution under this act shall any existing statute or rule of law prohibiting the disclosure of confidential communications between husband and wife apply, and both husband and wife shall be competent and compellable witnesses to testify against each other to any and all relevant matters, including the fact of such marriage, and the parentage of such child or children. Proof of the desertion of such wife, child or children in destitute or necessitous circumstances, or neglect or refusal to provide for the support and maintenance of such wife, child or children shall be *prima facie* evidence that such desertion, neglect or refusal is willful.

SEC. 7. An offense under this act shall be held to have been committed in any county in which such husband, parent, wife, child or children may be at the time such complaint is made. It shall be the duty of the county court, in any case in which application is properly made by the officers responsible for the execution of the law, to provide the funds necessary for extraditing any person, charged with an offense under this act, who has gone to another State.

SEC. 8. This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those States which enact it.

SEC. 9. All acts and parts of acts inconsistent herewith are hereby repealed.

WISCONSIN.

Statutes 1917.

SECTION 1500. *Legal settlements.*—Legal settlements may be acquired in any town, so as to oblige such town to relieve and support the persons acquiring the same in case they are poor and stand in need of relief, as follows:

(3) Illegitimate children shall follow and have the settlement of their mother at the time of their birth if she then have any within the State; but neither legitimate nor illegitimate children shall gain a settlement by birth in the place where they were born unless their parent or parents had a settlement therein at the time.

SEC. 1530. *Proceedings on complaint.*—On complaint being made to any justice of the peace by any female who shall be delivered of a bastard child or who shall be pregnant with a child which, if born alive, may be a bastard, accusing any person of being the father of such child the justice shall take such complaint in writing, under the oath of such female, and shall thereupon issue his warrant against the person accused, directed to the sheriff or any constable of his county, commanding him forthwith to bring such accused person before the justice to answer such complaint.

SEC. 1531. *Proceedings on return of warrant.*—On the return of such warrant, if the accused be in custody or shall appear, the justice shall examine the complainant under oath respecting the cause of complaint, and the accused may cross-examine her and put any question necessary for his defense. Witnesses may be examined on behalf of either party. All testimony taken and proceedings had shall be reduced to writing; the proceedings for cause shown may be adjourned from time to time, not exceeding ten days at any one time; and on such adjournment the accused may be recognized for his appearance for such examination in a sum not less than one hundred dollars nor more than one thousand dollars, and with sureties to the satisfaction of the justice, and in default thereof he shall be committed, pending such examination, to the county jail. The accused shall be entitled to a removal of such action as in criminal examination before justices of the peace.

SEC. 1532. *Discharge of accused.*—If the accused person shall pay or secure to be paid to the female complaining such sum of money or other property as she may agree to receive in full satisfaction and as shall be approved by the supervisors of the town, of which agreement and approval the justice shall make a memorandum on his docket, and shall also give bonds with sufficient sureties, to be approved by the justice, to the town in which she shall reside, or if she shall reside in a county which has abolished the

distinction between county poor and town poor, to such county, conditioned to secure and indemnify such town (or county, as the case may be) from all charges for the maintenance of such child, and shall also pay all expenses, if any, incurred by such town or county for the lying-in and the support and attendance upon the mother during her sickness and the costs of prosecution and further conditioned to support and maintain such child until it is sixteen years of age the justice shall discharge such accused person.

SEC. 1533. *Recognizance and commitment.*—In case any person accused as aforesaid shall not comply with the provisions of the preceding section and there is probable cause to believe the accused person guilty the justice shall bind such person in a recognizance with one or more sureties, to be approved by the justice, in a sum of not less than two hundred dollars nor more than two thousand dollars, to appear at the next term of the circuit court for the proper county, and from time to time thereafter until final judgment, to answer the said complaint and to abide the order of said court thereon; and on his neglect or refusal to find such security the justice shall cause him to be committed to the county jail, there to be held to answer to such complaint; and such justice shall thereupon certify and return the examination and all testimony so taken before him with all process and papers in the case to the clerk of said court. In case any examination has been had as provided by law, and the person complained of has been discharged for want of sufficient evidence to raise a probability of his guilt, and the district attorney shall afterwards discover admissible evidence sufficient, in his judgment, to convict the person discharged, he may, notwithstanding such discharge, cause another complaint to be made before any officer authorized by law to make such examination, and thereupon another arrest and examination shall be had.

SEC. 1533a. *Change of venue.*—All cases begun under the provisions of this chapter shall be tried in the county where the action is properly commenced unless it shall appear to the satisfaction of the court by affidavit that a fair and impartial trial can not be had in such county, in which case the court may direct that the accused be tried in some adjoining county where a fair and impartial trial can be had, the accused shall be entitled to a change of venue but once and no more.

SEC. 1533b. *Jurisdiction of bastardy actions.*—Any judge of a court of record, in vacation as well as in open court, and all court commissioners, except in counties containing cities having a population of one hundred fifty thousand or more, shall have concurrent jurisdiction with justices of the peace in all complaints and proceedings arising under chapter 64 of the statutes.

SEC. 1533m. *Bastardy—Prosecution and costs—No fees for counsel or witnesses.*—1. It shall be the duty of the district attorney to appear and prosecute in all bastardy proceedings in the trial court and, whenever notified and requested by the justice or magistrate, at the preliminary examination, and the rule for the taxation and payment of costs therein shall be the same as in criminal proceedings and actions: *Provided*, That the provisions of section[s] 4062 and 4713 of the statutes shall not apply.

2. In counties having a population of two hundred thousand or more according to the last State or national census, the district attorney or an assistant district attorney, shall appear and prosecute all bastardy cases at the preliminary examinations in justice courts and at the trial court. No agreement or settlement of any bastardy proceedings in any such county shall be valid unless approved by the district attorney or an assistant district attorney.

SEC. 1534. *Continuance—Bail.*—If at the next term of the court to which the accused is recognized or to which the venue has been changed the complainant shall not have been delivered or shall not be able to attend, or if at any time there shall be any other sufficient reason therefor the court may order a continuance of the cause from term to term as shall be judged necessary. If the sureties in the recognizance shall at any term of court object to being any longer held liable or if the court shall for any cause deem it proper such court may order a new recognizance to be taken and the defendant shall be committed until he gives such new recognizance.

NOTE.—The court may appoint counsel to assist the district attorney in bastardy cases. (Sec. 750.2.)

SEC. 1535. *Trial—Evidence—Judgment.*—Upon the trial of the cause the issue shall be whether the accused is guilty or not guilty; and if the mother of the bastard be dead her examination taken before the justice may be read in evidence, and in all cases it shall be read when demanded by the accused. If the accused shall be found guilty or shall admit the truth of the accusation he shall be adjudged to be the father of such child and shall stand chargeable with its future maintenance in such sum and in such manner as the court shall direct and also for all expenses incurred by such town or county or by the mother of such child for the lying-in and attendance of the mother during her sickness and also for the care and support of such child since its

birth and until it shall attain the age of sixteen years and for the costs of the prosecution. All which matters shall be ascertained and fixed by the court and shall be inserted in the judgment.

SEC. 1536. *Bond or commitment.*—If the person so adjudged to be the father of such child shall give a bond to the proper town or county in such sum and with such sureties as shall be approved by the court, conditioned for the performance of such judgment and the payment of all sums ordered thereby to be paid as therein directed, and shall pay the costs of prosecution and any sums adjudged then to be paid, he shall be discharged; otherwise he shall be committed to the county jail until he shall comply with and perform such judgment or shall be otherwise discharged according to law. In counties having and maintaining a house of correction, or workhouse the commitment may be to the house of correction or workhouse of said county instead of to the county jail.

SEC. 1537. *When and how discharged.*—Any person who shall have been so imprisoned ninety days may apply for his discharge from imprisonment in the manner provided by law for the discharge from imprisonment of persons confined in jail upon executions against the person; but notice of the application for such discharge shall be given to the complainant, if living within the State, and also to the chairman of the proper town or county board at least fifteen days before such application for discharge is made.

SEC. 1538. *Execution.*—The court, upon motion by the mother of such child or of any town or county interested may, from time to time, order execution to issue against the defendant and his sureties in any bond given as aforesaid to secure the performance of any such judgments, or against a defendant who shall have been discharged under the preceding section for such sum as may at any time become due thereon and remain unpaid.

SEC. 1539. *Prosecution by officers.*—When the mother of a bastard child commences any such proceeding and fails to prosecute the same the supervisors of the proper town or proper officers of the county in which the distinction between town and county poor has been abolished or any person interested in the support of such bastard may prosecute the proceedings commenced by the mother to final judgment.

SEC. 1540. *Inquiry by officers.*—If any female shall be delivered of a bastard child which is or is likely to become a public charge, or shall be pregnant of a child likely to be borne a bastard and to become a public charge, any member of the town board in a town, village board in a village, common council in a city or superintendent or commissioner of poor or the chairman of the committee on poor in any such town, village or city wherein such female shall reside, or in case she shall reside in a county which has abolished the distinction between county poor and town poor, any member of the county board or any superintendent of the county poor thereof may, if they deem proper, apply to some justice of the peace of the same county, who shall thereupon examine such female on oath respecting the father of such child, the time when and the place where such child was begotten and as to such other circumstances as he may deem necessary; and such justice shall reduce such examination to writing and shall thereupon issue his warrant, without further or formal complaint, to apprehend the reputed father, and the same proceedings shall be had thereon and with the like effects as are hereinbefore provided in cases of complaint made by such female.

SEC. 1541. *Warrant—Attendance of female.*—Any warrant issued under this chapter may be executed in any part of this State; and in all cases said town and county supervisors, superintendents of county poor and the accused may compel the said female to attend and testify the same as witnesses in other cases.

SEC. 1542. *Compromise.*—The chairman of the town, president of the village or mayor of the city wherein any such female shall reside, or county superintendents of poor in such counties as may have abolished the distinction between town and county poor, shall have power to make such compromise or arrangement with the putative father of any bastard child in any such town, city, village or county relative to the support of such child as they shall deem equitable and just; and thereupon may discharge such putative father from all liability for the support of such bastard.

SEC. 2273. *Property of illegitimate child.*—If any illegitimate child shall die intestate, without lawful issue, his estate shall descend to his mother; or in case of her decease, to her heirs at law.

SEC. 2274. *Heirship of illegimates.*—Every illegitimate child shall be considered as heir of the person who shall, in writing signed in the presence of a competent witness, have acknowledged himself to be the father of such child or who shall be adjudged to be such father under the provisions of sections 1530 to 1542, inclusive, of the statutes, or who shall admit in open court that he is such father, and shall in all cases be considered as heir of his mother, and shall inherit his or her estate, in whole or in part, as the case may be, in the same manner as if he had, been born in lawful wedlock; but he shall not be allowed

Legitimation and inheritance.

to claim, as representing his father or mother any part of the estate of his or her kindred, either lineal or collateral, unless before his death he shall have been legitimated by the marriage of his parents in the manner prescribed by law. (As amended by Laws 1917, ch. 218.)

SEC. 2339n-24. Removal of impediments to subsequent marriages.—If a person during the lifetime of a husband or wife with whom the marriage is in force, enters into a subsequent marriage contract in accordance with the provisions of section 2339n-1, and the parties thereto live together thereafter as husband and wife, and such subsequent marriage contract was entered into by one of the parties in good faith, in the full belief that the former husband or wife was dead, or that the former marriage had been annulled, or dissolved by a divorce, or without knowledge of such former marriage, they shall, after the impediment to their marriage has been removed by the death or divorce of the other party to such former marriage, if they continue to live together as husband and wife in good faith on the part of one of them, be held to have been legally married from and after the removal of such impediment, and the issue of such subsequent marriage shall be considered as the legitimate issue of both parents. (Added by Laws 1917, ch. 218.)

SEC. 2339n-25. Legitimation of child by marriage.—In any and every case where the father and mother of an illegitimate child or children shall lawfully intermarry, such child or children shall thereby become legitimated and enjoy all the rights and privileges of legitimacy as if they had been born during the wedlock of their parents; and this section shall be taken to apply to all cases prior to its date, as well as those subsequent thereto: *Provided*, That no estate already vested shall be divested by section 2274 and sections 2339n-1 to 2339n-27, inclusive, of the statutes. The issue of all marriages declared null in law shall, nevertheless, be legitimate. (Added by Laws 1917, ch. 218.)

SEC. 4585. Concealing death of bastard.—Any woman who shall conceal the death of any issue of her body which, if born alive, would be a bastard so that it may not be known whether such issue was born alive or not or whether it was not murdered, shall be punished by imprisonment in the county jail not more than one year nor less than six months, or by fine not exceeding three hundred dollars nor less than one hundred dollars.

SEC. 4587. Abandonment of young child.—Any person having the custody of any child under the age of six years who shall expose such child in any highway or in any other place, with intent to abandon it, shall be punished by imprisonment in the State prison not more than three years nor less than one year, or by imprisonment in the county jail not more than one year.

SEC. 4587c. Abandonment of child or wife—Penalty.—1. Any person who shall, without just cause, desert or willfully neglect or refuse to provide for the support and maintenance of his wife in destitute or necessitous circumstances; or any person who shall, without lawful excuse, desert or willfully neglect or refuse to provide for the support and maintenance of his or her legitimate or illegitimate minor child or children under the age of sixteen years in destitute or necessitous circumstances, shall be guilty of a crime, and, on conviction thereof, shall be punished by fine not exceeding five hundred dollars, or imprisonment in the State prison, county jail or in the county workhouse not exceeding two years, or both, in the discretion of the court. And it is hereby made the duty of the parent of any illegitimate child or children, under the age of sixteen years, to provide for the support and maintenance of such illegitimate child or children: *Provided*, That the parent of any illegitimate child who shall have made provision for the support of such child by giving bond, or by settlement with the proper officers in accordance with the provisions of chapter 64 of the statutes, shall not be subject to the provisions of this section.

2. Proceedings under this section may be instituted upon complaint made under oath or affirmation by the wife or child or children, or either of them, or by any other person or persons, or organization, against any person guilty of either of the above-named offenses.

3. At any time before trial, upon petition of the complainant and upon notice to the defendant, the court, or a judge thereof in vacation, may enter such temporary order as may seem just, providing for support of the deserted wife or children, or both, pendente lite, and may punish for violation of such order as for contempt.

4. Before the trial, with the consent of the defendant, or at the trial, on entry of a plea of guilty, or after conviction, instead of imposing the penalty hereinbefore provided or in addition thereto, the court in its discretion, having regard to the circumstances, and to the financial ability or earning capacity of the defendant, shall have the power to make an order, which shall be subject to change by the court from time to

time, as circumstances may require, directing the defendant to pay a certain sum weekly for a period not exceeding two years, to the wife or to the guardian, curator or custodian of the said minor child or children, or to an organization or individual approved by the court as trustee; and shall also have the power to release the defendant from custody on probation for the period so fixed, upon his or her entering into a recognizance, with or without surety, in such sum as the court or a judge thereof in vacation, may order and approve. The condition of the recognizance shall be such that if the defendant shall make his or her personal appearance in court whenever ordered to do so, and shall farther comply with the terms of such order of support, or of any subsequent modification thereof, then such recognizance shall be void, otherwise of full force and effect.

5. If the court be satisfied by information and due proof under oath, that at any time during said period of two years the defendant has violated the term of such order, it may forthwith proceed with the trial of the defendant under the original charge, or sentence him or her under the original conviction, or enforce the suspended sentence, as the case may be. In case of forfeiture of recognizance, and enforcement thereof by execution, the sum recovered may, in the discretion of the court, be paid, in whole or in part, to the wife, or to the guardian, curator, custodian or trustee of the said minor child or children.

6. No other or greater evidence shall be required to prove the marriage of such husband and wife, or that the defendant is the father or mother of such child or children, whether legitimate or illegitimate, than is or shall be required to prove such facts in a civil action. In no prosecution under this section shall any existing statute or rule of law prohibiting the disclosure of confidential communications between husband and wife apply, and both husband and wife shall be competent and compellable witnesses to testify against each other to any and all relevant matters, including the fact of such marriage and the parentage of such child or children: *Provided*, That neither shall be compelled to give evidence incriminating himself or herself, proof of the desertion of such wife, child or children in destitute or necessitous circumstances or of neglect or refusal to provide for the support and maintenance of such wife, child or children shall be prima facie evidence that such desertion, neglect or refusal is willful.

NOTE ON BIRTH REGISTRATION.—Certificate states whether legitimate or illegitimate (1022-30). If child is born out of wedlock and thereafter proceedings are had under the provisions of sections 1530 to 1542 inclusive, of the statutes, and in such proceedings the paternity of such child determined, such child shall be given the name of such father in said report (1022-30, added by amendment, June 18, 1915).

NOTE ON ADOPTION LAW.—The illegitimate mother is recognized in the consent requirement. (Sec. 4022.)

WYOMING.

Compiled Statutes, 1910.

SECTION 3941. *Legitimacy of children presumed*.—A divorce for the cause of adultery committed by the wife, shall not affect the legitimacy of the issue of the marriage, but the legitimacy of such children if questioned may be determined by the court upon proofs in the case, and in every case the legitimacy of all children begotten before the commencement of the action, shall be presumed until the contrary is shown.

Sec. 3942. *Certain divorces not to affect legitimacy of children*.—Upon the dissolution of a marriage on account of the nonage, insanity or idiocy of either party, the issue of the marriage shall be deemed to be in all respects, the legitimate issue of the parent, who at the time of the marriage was capable of contracting, or if neither parent be of age, then of the oldest parent.

Sec. 3943. *Divorce because of prior marriage—Form of decree—Legitimacy of children*.—When a marriage is dissolved on account of a prior marriage of either, and it shall appear that the second marriage was contracted in good faith and with the full belief of the parties that the former wife or husband was dead, or that one of the parties was ignorant of the fact that the other had a wife or husband living, the fact shall be stated in the decree of divorce or nullity, and the issue of such second marriage born or begotten before the commencement of the action shall be deemed to be the legitimate issue of the parent who at the time of the marriage was capable of contracting.

Sec. 3944. *When issue deemed illegitimate*.—Upon the dissolution by decree of nullity of any marriage that is prohibited on account of consanguinity between the parties, the issue of the marriage shall be deemed to be illegitimate.

Sec. 5731. *Illegitimate children; inheritance by*.—Illegitimate children shall inherit the same as those born in wedlock, if the parents subsequently intermarry, and such children be recognized after such intermarriage by the father, to be his illegitimate children, inherit from the mother and the mother from the children.

Legitimation and inheritance.

SEC. 5732. *Divorce not to affect inheritance.*—Divorces of husband and wife shall not affect the right of children personally together, to inherit their property.

SEC. 5733. *Rule of descent from illegitimate person.*—The rule of descent of all property of whatsoever kind or nature, real and personal, of any bastard or illegitimate person dying intestate in this State, and leaving

Inheritance. property and effects therein, shall be as follows, to-wit: On the death of any such person intestate, his or her property, estate and effects, shall descend to, and vest in, the widow or surviving husband and children, as the property and effects of other persons, in like cases. In case of the death of any such illegitimate person leaving no children or descendants of a child or children, then the whole property and estate, rights, credits and effects shall descend to, and vest in the widow or surviving husband. In case of any such illegitimate person leaving no widow, surviving husband or descendants, then the property and estate of such person shall descend to, and vest in, the mother and her children, and their descendants; to the mother one-half and the other half held to be equally divided between her children and their descendants, the descendants of a child taking the share of the deceased parent or ancestors. In case of the death of any such illegitimate person leaving no heirs, as above provided, then the property and effects of whatsoever kind or nature, shall pass to, and vest in, the next of kin to the mother of such illegitimate person, in the same manner as the estate of a legitimate person, would by law, pass to the next of kin.

SEC. 5739. *Parents joint guardians—Survivor may dispose of custody.*—* * * *

Any unmarried or widowed mother, whether of full age or a minor, of a child likely to be born or a child under the age of twenty-one and unmarried, may by a written instrument duly acknowledged, or last will duly executed, dispose of the custody and tuition of such child during its minority, or for any less time, to any proper person who shall, nevertheless, be subject to be removed as such guardian of the person, by any court of competent jurisdiction, for failure to discharge such trust. (As amended by Laws 1915, ch. 143.)

SEC. 6371. *Complaint and warrant for arrest.*—When an unmarried woman who has

Illegitimacy proceedings. been delivered of, or is pregnant with a bastard child, makes complaint thereof in writing, under oath, before any justice of the peace, charging a person with being the father of such child, the justice shall thereupon issue his warrant, directed to any sheriff or constable of this State, commanding him to pursue and arrest such accused person in any county in the State and bring him forthwith before the justice to answer the complaint.

SEC. 6372. *Examination of the complainant.*—Upon the return of the warrant the justice shall examine the complainant, under oath, in the presence of the accused, respecting the cause of her complaint; the accused shall be allowed to ask the complainant, when under oath, any question he may think necessary for his defense, and the examination of the complainant by the justice, the questions of the defendant and the answers thereto by the complainant shall be reduced to writing, in the presence of the justice, and subscribed by the complainant.

SEC. 6373. *Adjournment of examination and bond to answer complaint.*—The justice may, at the request of either party, and upon good cause shown, continue the examination for a period not to exceed ten days, upon the accused entering into a recognizance to the people of the State of Wyoming, with sufficient surety, in a sum not less than three hundred dollars nor more than six hundred dollars, to appear and answer the complaint at the time fixed for the hearing thereof, and abide the order of the justice.

SEC. 6374. *Compromise and bond.*—If, during the examination before the justice, or at any time before judgment in the district court, the accused pay, or secure to be paid to the complainant, such amount of money or property as she may agree to receive in full satisfaction, and give bond to the people of the State of Wyoming, with sufficient surety, to be approved by the justice, court or judge in vacation, conditioned to save any county within the State free from all charges for the maintenance of such bastard child, the justice, court or judge in vacation shall discharge the accused from custody, upon payment of the costs of the prosecution; but such agreement shall be made or acknowledged by both parties, in the presence of the justice, court or judge in vacation; who shall thereupon enter a memorandum thereof upon his docket, or cause the same to be made upon the journal.

SEC. 6375. *When no compromise made, accused to be recognized.*—If no compromise be made, the justice before whom the complaint was made shall bind the accused to appear at the next term of the district court in and for such county, in a recognizance to the people of the State of Wyoming, with sufficient surety to be approved by such justice, in a sum not less than three hundred dollars, nor more than six hundred dollars, to answer the accusation and abide the order of the court, and on neglect or refusal to find such security, the justice shall cause the accused to be committed to the jail of the county, there to be held to answer the complaint.

SEC. 6376. *Proceedings for discharge, on bail, of persons committed in default thereof.*—A person committed to jail for failure to give such recognizance, may be discharged from custody by entering into recognizance, with sufficient surety, in a sum not less than three hundred dollars and not more than six hundred dollars, to be taken and approved by a judge of the district court, and by him filed in the office of the clerk of the court.

SEC. 6377. *Justice shall file transcript and papers with clerk.*—The justice before whom the examination is had shall, within thirty days thereafter, file with the clerk of the district court of the county, a certified transcript of the proceedings, together with the recognizance, if any be taken, and all other papers therein.

SEC. 6378. *Continuance of cause in district court—Effect on bond.*—If, at the next term of the court, the complainant has not been delivered, or is unable to attend; or if there be any other sufficient reason therefor, the court may order a continuance of the cause, and such continuance shall operate as a renewal of the recognizance, which shall remain in full force until final judgment.

SEC. 6379. *Surrender of accused by sureties, and new recognizance.*—If the sureties on the recognizance, at any term of the district court, surrender the accused, and request to be released from the recognizance, or if the court deems the recognizance insufficient, the court may order a new recognizance to be taken, cancel the first recognizance, and commit the accused until a new recognizance is taken.

SEC. 6380. *Failure of accused to appear and forfeiture of recognizance.*—If the accused fail to appear at the term of the court to which he is recognized, his recognizance shall be forfeited; and if a verdict of guilty be rendered, and judgment entered thereon as hereinafter provided, the amount of such forfeited recognizance shall be applied in payment of the judgment.

SEC. 6381. *Accused to be permitted to defend.*—Before or upon the hearing of the complaint, the court in every case shall permit the accused to appear in person, or by counsel, and make defense.

SEC. 6382. *Trial in court.*—When the accused pleads not guilty of the charge, before the court to which he is recognized to appear, or having been recognized, fails to appear, the court shall order the issue to be tried by a jury, and at the trial of such issue, the examination before the justice shall be given in evidence by the complainant.

SEC. 6383. *Order of court when accused adjudged the reputed father.*—If the accused, in person or by counsel, confess in court that the accusation is true, or if, upon the trial, the jury find him guilty, he shall be adjudged the reputed father of the bastard child and shall stand charged with the maintenance thereof in such sum as the court shall order and direct, with the payment of costs of prosecution; the court shall require the reputed father to give security to perform such order; and in case he neglect or refuse to give such security and pay the costs of prosecution, he shall be committed to the jail of the county, there to remain except as provided in the next section, until he complies with the order of the court.

SEC. 6384. *When putative father entitled to benefits of provisions of law relating to insolvent debtors.*—Such putative father, after having been confined in such jail for the period of three months for failing to comply with the order of the court provided for in the last section, shall be entitled to the benefits of the provisions of law relating to insolvent debtors in the same manner as persons imprisoned for debt; but before such putative father shall receive, or be entitled to such benefits, he shall give at least three days' notice to the complainant or her attorney of his intention to apply therefor.

SEC. 6385. *Effect of death of mother, if child living.*—The death of the mother shall not abate the prosecution if the child is living, but a suggestion of the fact shall be made, and the name of the child substituted upon the record for that of the mother, and a guardian ad litem appointed, who shall not be liable for costs; and in such case the testimony of the mother, reduced to writing before the justice, may be read in evidence.

SEC. 6386. *Effect of death of child upon prosecution, if mother be living.*—The death of a bastard child shall not be cause of abatement, or bar to a prosecution for bastardy, if the mother be living; but the court trying the cause shall, on conviction, take the death into consideration, and give judgment for such sum as it deems just, the payment of which, or security therefor, may be enforced as above provided.

SEC. 6387. *Upon death of child after judgment, court may modify amount.*—Upon the death of a bastard child after judgment, and before the expiration of the time limited for the last payment on the judgment, the court which rendered the judgment may, on motion and notice, make such reduction in the amount of the same as is proper and just in consequence of such death.

SEC. 6388. *Proceedings on failure of officer to arrest accused.*—When it appears from the return of the officer upon the warrant that the accused could not be arrested, the justice shall, upon demand, forthwith make a certified transcript of the proceedings had before him, including copies of the complaint and warrant with the return thereon, and deliver the same to the complainant, her agent or attorney.

SEC. 6389. *Order of attachment and grounds therefor.*—Upon the filing of the transcript mentioned in the preceding section, in the office of the clerk of the district court of the county in which the justice resides, an order of attachment shall be issued by the clerk, when there is filed in his office an affidavit of the complainant, her agent or attorney showing:

First. That the complainant is the mother of a bastard child, or that she is pregnant with a child which, if born alive, will be a bastard;

Second. That the accused person is the father of such child;

Third. The existence of one or more of the following grounds:

1. That the accused is a nonresident of the State; or

2. Has absconded with the intent to defraud complainant; or,

3. Has left the county of his residence to avoid the service of a warrant,

4. So conceals himself that a warrant can not be served upon him.

SEC. 6390. *Proceedings under attachment same as in civil actions.*—The order of attachment shall issue without an undertaking. The amount of property seized thereon shall not exceed one thousand dollars in appraised value; and attachments under this chapter shall be subject to the provisions of law in this State relating to attachments in civil actions, and be governed in all respects thereby.

SEC. 6391. *Service by publication.*—Upon the return of the order of attachment, service may be had by publication, for four consecutive weeks, in some newspaper of general circulation in the county wherein the cause is pending, of a notice of a pendency of the proceeding, stating the object thereof, the substance of the complaint, and that an order of attachment has been issued and served therein; and in such case copies of the complaint and order of attachment, with the return thereon, shall forthwith be deposited in the post office, directed to the accused at his place of residence, unless it be made to appear to the court, by affidavit or otherwise, that such residence is unknown to the complainant, and could not, with reasonable diligence, be ascertained by her. The cause may be heard or determined at any time after the completion of service by publication.

SEC. 6392. *Order of the court with respect to attached property.*—If, upon such trial, the accused be adjudged to be the reputed father of the child, the court shall order that unless the defendant, within a day to be fixed by the court, pay the sum adjudged against him, with costs of prosecution, so much of the property remaining in the hands of the officer, after applying the money arising from the sale of perishable property, and so much of the personal property, and lands and tenements, if any, as may be necessary to satisfy such order be sold under the same restrictions and regulations as if the same had been levied on by execution. The money arising therefrom, with the amount that may be recovered from the garnishee, shall be subject to the order and control of the court, and be applied to satisfy such order in such sums and at such times as the court may order and direct; if there be not enough to satisfy the same, the order of the court shall stand, and execution may issue thereon for the residue, in all respects as in judgments at law; and any surplus of attached property, or its proceeds, shall be returned to the defendant.

SEC. 6393. *County commissioners may prosecute suit.*—If a woman have a bastard child, and neglects to bring a suit for its maintenance, or commences a suit and fails to prosecute it to final judgment, the county commissioners of the county interested in the support of such bastard child may, when sufficient security is not offered to save such county from expense, make complaint on behalf of such county, against him who is accused of begetting such child, or may take up and prosecute a complaint begun by the mother of such child.

SEC. 6394. *County commissioners may recover on bond given in hasty proceedings.*—The county commissioners of the county in which a bastard child becomes a charge may sue and recover on any bond given to the people of the State of Wyoming in any proceeding against the reputed father of such bastard child; and the provisions of this chapter, and all the remedies herein allowed shall apply to all cases in which the county commissioners are authorized to commence or prosecute a complaint against the reputed father of an illegitimate child.

NOTE ON BIRTH REGISTRATION.—United States Bureau of Census standard form. (Sec. 2957.)

NOTE ON INCESTUOUS MARRIAGES.—Law applies to illegitimate relationship. (Sec. 3917.)

UNITED STATES.

1 Fed. Stat. Ann., 2d ed., p. 1225.

Act of March 22, 1882: Act to amend section 5352 of Revised Statutes of United States in reference to bigamy.

SECTION 7. *Issue of Mormon marriages before January, 1883, legitimated.*—The issue of bigamous or polygamous marriages, known as Mormon marriages, in cases in which such marriages have been solemnized according to the ceremonies of the Mormon sect, in any Territory of the United States, and such issue shall have been born before the first day of January, anno Domini eighteen hundred and eighty-three, are hereby legitimated. (See Utah, sec. 2850.)

1 Fed. Stat. Ann., 1st ed., p. 709.

Act of March 3, 1887, in reference to bigamy.

SEC. 11. *Laws of Utah allowing illegitimate children to inherit annulled.*—That the laws enacted by the Legislative Assembly of the Territory of Utah which provide for or recognize the capacity of illegitimate children to inherit or to be entitled to any distributive share in the estate of the father of any such illegitimate child are hereby disapproved and annulled; and no illegitimate child shall hereafter be entitled to inherit from his or her father or to receive any distributive share in the estate of his or her father: *Provided*, That this section shall not apply to any illegitimate child born within twelve months after the passage of this act, nor to any child made legitimate by the seventh section of the act entitled "An act to amend section fifty-three hundred and fifty-two of the Revised Statutes of the United States, in reference to bigamy, and for other purposes," approved March twenty-second, eighteen hundred and eighty-two. (See Utah, sec. 2848, *supra*.)

TEXT OF FOREIGN ILLEGITIMACY LAWS

TEXT OF FOREIGN ILLEGITIMACY LAWS.¹

FRANCE.²

PROVISIONS OF THE CIVIL CODE.

LEGITIMATION OF CHILDREN BORN OUT OF WEDLOCK.

SECTION 331.³ (Law of Dec. 30, 1915.) Children born out of wedlock, except those born of adultery, are legitimized by the subsequent marriage of their father and mother, when these latter parties have recognized them legally before their marriage and when they are recognizing them at the time of the marriage celebration. In this latter case, the registrar of vital statistics who celebrates the marriage notes the recognition and the legitimation in a separate document.

When an illegitimate child has been recognized by its father and mother or by one of them subsequently to their marriage, this recognition will bring about legitimation only after a judgment pronounced in public sitting after inquiry and discussion in the council chamber, which judgment must state that the child had, since the celebration of the marriage, the status of a child common to both parents.

Children born of adultery are legitimated in the following cases by the subsequent marriage of their father and mother, when these latter parties have recognized them at the time of the marriage celebration, in the manner prescribed in the first paragraph of this section;

(1) Children born in consequence of adulterous intercourse on the part of the mother when they are disowned by the husband or his heirs;

(2) Children born in consequence of adulterous intercourse on the part of the father or mother when they are said to have been conceived at a time when the father or mother resided separately by virtue of an order issued in accordance with section 878 of the Code of Civil Procedure⁴ and prior to waiving of proceedings, the refusal of the request or to a reconciliation judicially acknowledged.

However, both the recognition and legitimation may be made void if the child has the status of a legitimate child;

(3) Children born in consequence of adulterous intercourse on the part of the husband in all other cases, if at the time of the subsequent marriage there are no children or legitimate descendants issued from the marriage during which the adulterine child was born or had been conceived.

Any case of legitimation will be mentioned on the margin of the birth record of the legitimated child.

This mention will be made at the request of the registrar of vital statistics who performed the marriage, if he knows of the existence of the children; if not, at the request of any interested party.

SEC. 332. Legitimation may take place even in favor of deceased children who left descendants; in such case it operates for the benefit of those descendants.

SEC. 333. Children legitimated by subsequent marriage shall have the same rights as if they had been born from that marriage.

RECOGNITION OF ILLEGITIMATE CHILDREN.

SEC. 334. The recognition of an illegitimate child shall be made by a document drawn up before a notary when the recognition had not been made in his birth record.

SEC. 335. This recognition shall not be made for the benefit of children born from an incestuous or adulterous intercourse, subject to the provisions of section 331.

SEC. 336. Recognition by the father, without reference to and consent of the mother, has an effect only with regard to the father.

SEC. 337. Recognition during marriage by either the husband or the wife in favor of an illegitimate child which he or she had before the present marriage from another than the present marriage partner, can not affect the rights either of the other party to the marriage, or those of the children born from that marriage. However, it shall have its legal effect after the dissolution of the marriage if there are no children from that marriage.

¹ The Norwegian laws have been issued in a separate publication; Norwegian Laws Concerning Illegitimate Children; Introduction and translation by Leifur Magnusson. Legal series No. 1, Bureau publication No. 31. U. S. Children's Bureau, 1918.

² As in force on Dec. 31, 1918.

³ This and other sections referred to, unless otherwise stated, are sections of the Civil Code. Edition used; Code Civil, Paris, Librairie Dalloz, 1919.

⁴ Describes procedure in case of separation.

SEC. 338. An illegitimate recognized child shall not claim the rights of a legitimate child. The rights of illegitimate children are regulated in the title concerning inheritance.

SEC. 339. Any case of recognition on the part of the father or mother, as well as any claim by the child may be contested by any interested party.

SEC. 340.¹ Paternity outside of marriage may be judicially declared—

(1) In case of abduction or ravishment, where the time of either corresponds to that of the conception.

(2) In case of seduction accomplished by fraudulent methods, abuse of authority, promise of marriage or betrothal, and if there exists a beginning of written proof according to sec. 1347.²

(3) In case there are letters or other private writing on the part of the alleged father from which there appears an unambiguous admission of paternity.

(4) In case the alleged father and mother have lived during the legal period of conception in notorious concubinage.

(5) In case the alleged father has provided for or has contributed to the support and bringing up of the child, as its father.

An action for recognition of paternity will not be permitted:

(1) If it is established that during the legal period of conception the mother was notoriously of ill repute or had intercourse with another person.

(2) If the alleged father was during the same period either by absence or by some accident physically incapable of being the father.

(3) The right of bringing action belongs only to the child. During the minority of the child, the mother, even though under age, can alone bring the action.

The action must be brought within two years from the time of confinement.

However, in the cases specified in paragraphs (4) and (5) above, the action may be brought within two years from the termination of the concubinage or of the contribution of the alleged father to the maintenance and bringing up of the child.

In the absence of recognition by the mother, or if she is dead, disqualified or absent, the action will be brought according to the provisions of sec. 339 (by an administrator appointed by the inferior court).

If the action is not brought within the minority of the child, the child may bring it within one year after reaching full age.

SEC. 341. Inquiry into maternity is permitted:

The child claiming a person as his mother will be obliged to prove his identity with the child of which she was delivered. This may be proved by witnesses only when there is already a written proof.

SEC. 342. A child shall never be permitted to inquire into paternity or maternity in the cases where recognition is not permitted according to sec. 335.

RIGHTS OF INHERITANCE OF ILLEGITIMATE CHILDREN WHO HAVE BEEN RECOGNIZED IN THE FORM PRESCRIBED BY LAW, AND THE RIGHTS OF THEIR PARENTS IN THE CHILDREN'S INHERITANCE.

SEC. 756. The law grants to illegitimate children rights to the property of their deceased father or mother only when they have been recognized in the form prescribed by law. Illegitimate children recognized according to law are entitled as heirs to the succession of their deceased father or mother.

SEC. 757. The law gives the illegitimate children no right to the property of the relatives of their father or mother.

SEC. 758. The right of an illegitimate child in the succession of his father or mother is determined as follows: If the father or mother left legitimate descendants, this right is limited to one-half of the inheritance the child would have received if it had been legitimate.

SEC. 759. The illegitimate child is entitled to three-quarters of the inheritance, when the father or mother leaves no descendants, but either ascendants, brothers, sisters, or legitimate descendants of brothers or sisters.

SEC. 760. The illegitimate child is entitled to the whole property when his father or mother leaves no descendants, nor ascendants, nor brothers, sisters, nor legitimate descendants of brothers or sisters.

SEC. 761. In case the illegitimate children die before their parents, their children and descendants may claim the rights specified in the preceding sections.

¹ Prior to 1912 sec. 340 was as follows: The inquiry into paternity is forbidden. In case of rape, and if the time of the rape corresponds to that of conception, one guilty of rape may, on demand of the interested parties, be declared the father of the child.

² A written proof is a document coming from the person against whom the claim is made, or from the person whom he represents, and which makes probable the alleged fact.

SEC. 762. The provisions of sections 756, 758, 759, and 760 do not apply to children from adulterous or incestuous intercourse. The law grants them only support.

SEC. 763. The amounts of support are determined according to the means of the father and mother and the number and relationship of the legitimate heirs.

SEC. 764. When the father or the mother of a child born from adulterous or incestuous intercourse has had him taught a trade, or when either of them has made provision for his support during his lifetime, such child can make no claim to their inheritance.

SEC. 765. The inheritance of an illegitimate child who dies without leaving descendants goes to the father or mother who recognized him, or one-half to each parent, if both recognized him.

LEGISLATION ENACTED BETWEEN 1914 AND 1918, BOTH INCLUSIVE.¹

In the French separation allowance laws, contrary to those of Germany, children of illegitimate birth are not mentioned; the laws apply to the soldier's dependents and to all children that the soldier has in his care (*à sa charge*).

The law on wards of the nation (*pupilles de la nation*) of July 27, 1917, also applies to illegitimate children, although it contains no specific mention of them.

The decree of August 26, 1914 (*Journal Officiel*, Sept. 5, 1914, p. 7859), provides family bonuses (*indemnités pour charge de famille*) of 200 francs annually for each child above the second under 16 years old, for officers, military employees, noncommissioned officers, corporals, and soldiers; the latter only if they serve over the required term.

Section 3 of the decree is as follows: Only those children are considered legally in the care of the soldier to whom he owes support according to the provisions of the Civil Code (which of course also includes illegitimate children under certain conditions).

Law of April 4, 1915, allowing marriage by proxy to soldiers and sailors in active service (*Journal Officiel*, Apr. 10, 1915, p. 2051):

Section 1 states in part: In time of war, for serious reasons and with permission from the minister of justice and the minister of war or navy, the marriage of soldiers or sailors may be celebrated, without requiring the prospective husband, if he is serving with the colors, to appear in person, and on the condition that he has a special legal representative.

On April 8, 1915, the minister of justice issued in a circular regulations for the administration of the above law (*Journal Officiel*, Apr. 10, 1915, p. 2052). In that circular, among the "serious reasons" the minister mentions the cases where there are children to be legitimized or when the prospective wife is pregnant.

Law of April 7, 1917, determining the conditions under which may be legitimized the children whose parents, because of the father's mobilization and death, found themselves unable to contract marriage:²

SECTION 1. Each child whose mobilized father died since August 4, 1914, as a result of wounds received or diseases contracted or aggravated during his stay with the colors, may be declared legitimized in the meaning of section 331 of the Civil Code by the inferior court of the place of opening of the succession, in virtue of a judgment pronounced in public session after discussion in the council chamber: *Provided*, That correspondence or any authentic document shows on the part of both parents a desire to marry and to legitimize the child. Legitimation may also take place if all the defendant relatives join in the request.

Action shall be brought by means of summons against the public prosecutor at the request of the mother, or in her absence, of the guardian or supervising guardian, or of the father's or mother's ascendants.

The relatives of the father in direct line, who did not take the initiative in the action, and in the absence of direct line relatives, the collateral relatives who have the privilege to appear in the case must become parties to the suit.

The applicant must prove: (1) That the child was legally recognized by the mother or judicially declared to have been born from her; and (2) that both parents on the day of the father's death fulfilled the conditions for contracting marriage prescribed by sections 144, 145, 147, 148, 150, 158, 159, 161, 162, 163, 164, 228, and 296 of the Civil Code.

If the judgment or the final order grants the request, its enacting part will be immediately written on the registers of vital statistics of the current year of the commune where the child was born, and the fact must be mentioned on the margin of its birth certificate.

The decision can be set up against third parties only after the above transcription on the register of vital statistics has been made.

¹ Other than amendments of the Civil Code.

² *Journal Officiel*, Apr. 11, 1917, p. 2812; also given at the end of sec. 333 of the 1919 edition of the Civil Code.

The child will enjoy the rights of a legitimate child with regard to its father as well as with regard to its mother, with a retroactive effect to the day preceding the father's or (as the case may be) the mother's death.

No case in compliance with the present law will be received at the end of two years after the promulgation of the decrees specified in sections 1 and 2 of the law of July 4, 1915.¹

The documents necessitated by cases under this law must be supplied with stamps and registered free of charge, when the formality of registration is necessary.

SEC. 2. Section 1 of the laws of April 4, 1915,² and section 1 of the law of August 19, 1915,³ are supplemented by the following paragraph:

These marriages, if they took place after the death of the prospective husband, nevertheless produced all their effects as regards legitimation of children and the right of the husband or wife, according to the provisions of sections 201 and 202 of the Civil Code.

SEC. 3. The present law applies to Algeria and the colonies.

¹ The law of July 4, 1915, deals with the resumption after the war of the prescribed waiting periods in civil, commercial, and administrative matters.

² See p. 247.

³ Sec. 1 of the law of Aug. 19, 1915, extends the provisions of the law to soldiers and sailors who have been taken war prisoners.

GERMANY.¹

PROVISIONS OF THE CIVIL CODE.

LEGAL POSITION OF CHILDREN OF VOID MARRIAGES.

SEC. 1699.² The child of a void marriage which, if the marriage were valid, would be legitimate, is deemed legitimate unless both husband and wife knew upon entering the marriage that it was void.

This provision does not apply if the nullity of the marriage was due to defect of form and the marriage was not entered in the register of marriages.

SEC. 1700. The legal relation between the parents and a child which, according to section 1699, is deemed legitimate, is determined (subject to secs. 1701-1702) by the rules applicable to children by a marriage which is divorced in a case where both husband and wife are declared guilty.

SEC. 1701. If the father in entering upon the marriage knew that it was void, he shall not have the rights resulting from paternity. The parental power belongs to the mother.

SEC. 1702. If the mother in entering upon the marriage knew that it was void, she has with regard to the child only those rights which belong to a wife who, in the case of divorce, is declared guilty.

If the father dies or his parental power is terminated for some other cause, the mother has only the right and the duty to care for the person of the child. She is not entitled to represent the child. The guardian of the child has, in so far as the mother has the care of the child, the position of cooperating guardian.

The provisions of the last paragraph also apply where the parental power of the father is suspended on account of his lack of acting capacity or according to the provisions of section 1677 (Continued impediment).

SEC. 1703. If the child is not deemed legitimate because both husband and wife knew in entering the marriage that it was void, it can nevertheless demand of the father while he is living the same support that can be demanded by a legitimate child. The father has not the right provided for in section 1612, paragraph 2 (Right to determine in what manner and for what period in advance maintenance shall be provided).

SEC. 1704. If the marriage is contestable and is in fact contested on the ground of duress, the party to the marriage entitled to contest it is regarded like the party who, in entering the marriage, did not know that it was void.

LEGAL POSITION OF ILLEGITIMATE CHILDREN.

SEC. 1705. The illegitimate child has in relation to the mother and to the relatives of the mother the legal position of a legitimate child.

SEC. 1706. The illegitimate child receives the family name of the mother. If the mother, in consequence of her marriage, bears another name, the child receives the family name which the mother had before her marriage. The husband of the mother may by declaration to the competent authority give to the child, with the consent of the child and of the mother, his name. The declaration of the husband and the declarations of consent of the child and the mother shall be given in officially authenticated form.

SEC. 1707. The mother has not the parental power over the illegitimate child. She has the right and the duty to care for the person of the child. She is not entitled to represent the child. The guardian of the child has, in so far as the mother has the care, the position of cooperating guardian.

SEC. 1708. The father of the illegitimate child is bound to give to the child until the completion of its sixteenth year, a support corresponding to the position in life of the mother.

The support includes the entire maintenance of the child, the cost of education and preparation for some vocation.

If the child at the time of the completion of its sixteenth year, in consequence of bodily or mental infirmity, is unable to support itself, the father must furnish support beyond that time. The provisions of section 1603, paragraph 1, apply in this case.

¹ As in force on Dec. 31, 1918.

² This and all other sections given here, unless otherwise stated, are sections of the Civil Code. Edition used: Bürgerliches Gesetzbuch, C. H. Beck'sche Verlagsbuchhandlung, München, 1912.

(According to sec. 1603, par. 1, the duty of support does not exist where the father can not furnish it without affecting his own maintenance according to his station in life.)

SEC. 1709. The father is bound to support the child before the mother or the maternal relatives are bound to do so. In so far as the mother or some maternal relative obliged to furnish the support is actually doing so, the child's claim of support against the father is transferred to the mother or a maternal relative. No claim prejudicial to the child shall be founded upon the transfer.

SEC. 1710. The support must be furnished by periodical payments of money. The money is payable three months in advance. By paying in advance for a further period, the father is not released. If the child is alive at the beginning of the quarter of the year, it is entitled to the full amount due for the three months.

SEC. 1711. The claim for support does not expire with the death of the father. The claim is valid, even though the father has died before the birth of the child.

The heir of the father is entitled to pay to the child, in commutation of the father's obligation, a lump sum in the amount which the child, if it had been legitimate, would have been entitled to receive as its compulsory portion of the estate. If there are several illegitimate children, the amount is calculated as if they were all legitimate.

SEC. 1713. The claim for support expires with the death of the child, except in so far as the claim is for payments, or for damages by reason of failure to make payments, or for advance payments due at the time of the death of the child.

Funeral expenses must be borne by the father in so far as they can not be recovered from the heirs of the child.

SEC. 1714. An agreement between father and child regarding future support or regarding commutation of support for a lump-sum payment requires the consent of the public guardians' court. A gratuitous relinquishment of the right to future support is void.

SEC. 1715. The father is bound to reimburse the mother for the cost of confinement and other expenses caused by pregnancy or confinement, the cost of support for the first six weeks after confinement, and other expenses caused by pregnancy or confinement. The amount of ordinary expenses the mother may demand, irrespective of what she has actually expended.

The claim may be asserted by the mother, even though the father has died before the birth of the child or the child is stillborn.

The claim must be made within four years from the time it accrues. It accrues at the expiration of six weeks from the birth of the child.

SEC. 1716. Even before the birth of the child, it may be ordered by provisional decree obtained by the mother that the father pay to the mother or to her guardian immediately upon birth the support payable for the first three months, and that he deposit the necessary amount at an appropriate time before the birth.

In like manner, upon petition of the mother the court may order payment and deposit the amount for the ordinary expenses payable under section 1715, paragraph 1.

The provisional decree is not conditioned upon *prima facie* showing that the claim is likely to be endangered.

SEC. 1717. A person is deemed to be the father of an illegitimate child under sections 1703 to 1716 if he has had intercourse with the mother within the time of conception, provided that no one else at that time has had intercourse. Intercourse is not, however, taken into consideration when under the circumstances it is evidently impossible that the mother conceived the child in consequence of such intercourse, as time of conception is considered the period between the one hundred and eighty-first day and the three hundred and second day before the birth of the child both inclusive.

SEC. 1718. Whoever by a public instrument acknowledged his paternity after the birth of the child can not allege that some one else has during the time of possible conception had intercourse with the mother.

LEGITIMATION OF ILLEGITIMATE CHILDREN.

1. Legitimation by subsequent marriage.

SEC. 1719. An illegitimate child acquires the position of a legitimate child by the marriage of the father with the mother upon such marriage.

SEC. 1720. The husband of the mother is regarded as the father of the child if he has had intercourse with her during the period of conception specified in section 1717, paragraph 2, unless circumstances make it apparently impossible that the mother has conceived the child from this intercourse.

If the father acknowledges his paternity by a public act after the birth of the child, it is presumed that he has had intercourse with the mother within the time of possible conception.

SEC. 1721. If the marriage of the parents is void, the provisions of sections 1699 to 1704 apply by analogy.

SEC. 1722. The marriage between the parents produces legitimation on behalf of the descendants of the illegitimate child, even though the illegitimate child has died before the marriage.

2. *Legitimation by declaration.*

SEC. 1723. An illegitimate child may be declared legitimate upon petition of the father by a governmental declaration. The declaration is made by the State to which the father belongs. If the father is a German belonging to no State, the declaration is made by the imperial chancellor. Each member State determines the mode in which its government makes the legitimation for which it is competent.

SEC. 1724. The declaration of legitimation can not be made upon a condition or with a time limit.

SEC. 1725. The petition of the father must contain a declaration that he recognizes the child as his own.

SEC. 1726. The declaration of legitimation requires the consent of the child, and, if the child has not completed the twenty-first year, the consent of the mother. If the father is married, the consent of his wife is also required.

The declaration of consent must be made to the father or to the public authority to which the application is to be sent. The consent is irrevocable.

The consent of the mother is not required where the mother is in a permanent state of incapacity to make a declaration or her place of residence has been permanently unknown. The same applies to the consent of the wife of the father.

SEC. 1727. If the mother refuses her consent there may be substituted upon petition of the child the consent of the public guardians' court, if the failure to declare legitimation would result in undue disadvantages to the child.

SEC. 1728. The petition to have a declaration made and the consent of the persons named in section 1726 can not be made through an agent or legal representative. If the child is without acting capacity, or has not attained the fourteenth year, its legal representative may give consent with the approval of the public guardians' court.

SEC. 1729. If the father is limited in his acting capacity his petition requires, in addition to the consent of his legal representatives, also the consent of the public guardians' court. If the child is limited in his acting capacity the same is true of its consent. If the mother of the child or the wife of the father is limited in her acting capacity the approval of a legal representative is not necessary for the giving of her consent.

SEC. 1730. The petition and the declaration of consent must be authenticated by a judge or a notary public.

SEC. 1731. If the petition or the consent of any of the persons indicated in section 1726 is subject to contest the provisions of sections 1728-1729 apply to the contest and the confirmation of the contestable act.

SEC. 1732. A declaration of legitimation can not be made if at the time of the conception of the child the marriage between the parents was forbidden under section 1310, paragraph 1, on account of relationship by blood or marriage.

SEC. 1733. The declaration of legitimation can not be made after the death of the child.

After the death of a father the declaration of legitimation can be made only if the father had handed his petition to the proper authority or had authorized the court or the notary to forward the petition after having duly acknowledged it.

The declaration made after the death of the father has the same effect as if it had been made before his death.

SEC. 1734. The declaration may be denied, even though a legal impediment does not exist.

SEC. 1735. The validity of the declaration is not affected by the fact that the petitioner is not the father of the child or by the fact that it has been wrongly assumed that the mother of the child or the wife of the father is permanently incapable of giving consent, or that her domicile has been permanently unknown.

SEC. 1736. By the declaration of legitimation the child acquires the status of a legitimate child.

SEC. 1737. The effect of the declaration extends to the descendants of the child. It does not extend to the relatives of the father. The wife of the father acquires no affinity with the child, nor does the husband or wife of the child acquire such relationship with the father. The rights and obligations resulting from relationship between the child and its relatives remain unaffected unless otherwise provided by law.

SEC. 1738. With the declaration of legitimation the mother loses the right and the duty to care for the person of the child. If she is bound to support the child, that right and duty again come into force when the parental power of the father terminates or when it is suspended on account of his incapacity, or according to section 1677. (The parental power of the father is suspended if the public guardians' court finds that the father is de facto prevented from exercising his parental power for a considerable time. The suspension ends when the public guardians' court decrees that the reason for suspension no longer exists.)

SEC. 1739. The father is bound to support the child and its descendants before the mother and the maternal relatives are bound to do so.

SEC. 1740. If the father desires to marry while he has the parental power over the child the provisions of sections 1669 to 1671 apply. (Secs. 1669 to 1671 state in substance that the father intending to remarry must notify the public guardians' court and must bring about a division of property.)

— LEGISLATION ENACTED BETWEEN 1914 AND 1918, BOTH INCLUSIVE.

Law of August 4, 1914, on separation allowances (Reichs-Gesetzblatt, 1914, p. 332):

The above law amends that of February 28, 1888, and, among other measures, extends the separation allowances to the soldier's illegitimate children when his obligation as father to provide support has been proved.

Imperial order of March 19, 1915, on separation allowances to families of soldiers of the reserve and landsturm serving in the colonies (Reichs-Gesetzblatt, 1915, p. 187):

The allowances are paid not only to the wife and legitimate children but also to illegitimate children when the soldier's obligation as father to support the children has been proved.

Order by Federal Council of April 23, 1915, on the extension of maternity benefits for the time of the war (Reichs-Gesetzblatt, 1915, p. 257):

Section 3 states: The maternity benefit prescribed by the order of the above date is paid also for an illegitimate child of a war participant of the categories mentioned in section 1 (serving in this war in the army or sanitary or similar service, or persons who served so and were prevented from the continuation of such service or resumption of gainful employment by death, wounds, sickness, or by becoming a war prisoner) when that child is receiving the separation allowance according to section 2, paragraph 1c, of the law of February 28, 1888, as amended by the law of August 4, 1914 (illegitimate child is receiving the separation allowance when the soldier's obligation as father to support the child has been proved).

Order of September 9, 1915, on simplification of court procedure (Reichs-Gesetzblatt, 1915, p. 562):

Section 28 of the order states that in case an illegitimate child applies for support from its father, the evidence prescribed in section 118, paragraph 2, of the code of civil procedure¹ is not necessary for the granting of poor relief.

Order by Federal Council of January 21, 1916, on separation allowances to families of soldiers (Reichs-Gesetzblatt, 1916, p. 55):

Besides the families of the persons mentioned in the earlier laws, this order extends also, in case of need, the war-time separation allowances to the families of (1) soldiers who during the war were in the regular military service required by law; (2) those who volunteered for the duration of the war; and (3) German subjects who at the outbreak of the war resided abroad and were prevented by the war from returning home.

Among the persons to whom the provisions of this order apply are illegitimate children of the wife brought by her into the marriage, even when the husband is not the father.

Order by Federal Council of March 1, 1917, on sickness and maternity benefits during the war (Reichs-Gesetzblatt, 1917, p. 200):

Part III of the order is as follows: The maternity benefit provided by section 3 of the order of April 23, 1915,² is also to be paid for an illegitimate child of a soldier who reenlists after having served his time, when his obligation to support the child has been proved and the mother is a woman of small means in the meaning of section 2, paragraph 2, of that order (when the total income left to her upon her husband's death or entrance into the service is not over 1,500 marks and for each child under 15 years old consists of another 250 marks).

¹ Prescribes the manner of proving that the applicant is a person of small means.

² See above.

Order by Federal Council of July 6, 1917, on maternity benefits in connection with the national auxiliary service (Reichs-Gesetzblatt, 1917, p. 591):

Section 2 of the order provides maternity benefits for women not receiving such benefits under the orders of December 3, 1914, January 28 and April 23, 1915, if their husbands are pursuing any of the occupations mentioned in section 1 of the national auxiliary service law, if the economic situation of the husband has been shown to have become worse because of his participation in the auxiliary service, and if there is need of assistance.

Section 4 states that the maternity benefit is also to be granted for the illegitimate child of a man in the national auxiliary service when his obligation to provide support has been proved and when the conditions of section 2 are present.

Order by Federal Council of November 22, 1917, amending the provisions concerning sickness insurance and maternity benefits during the war (Reichs-Gesetzblatt, 1917, p. 1085):

Section 4 deals with illegitimate children, and is as follows: In the case of an illegitimate child the claim for maternity benefit according to section 3 of the order of April 23, 1915,¹ is valid even when the separation allowance provided by section 2, paragraph 1c, of the law of August 4, 1915, is not granted, but when the war participant's obligation to support the child has been proved and the mother is a woman of small means.

¹ See p. 252.

SWITZERLAND.¹

PROVISIONS OF THE CIVIL CODE.

LEGITIMATION.

SEC. 258.² If the parents of an illegitimate child intermarry, the child becomes by law legitimate.

SEC. 259. The parents are required at the time of, or immediately after the marriage, to report their common illegitimate children to the registrar of vital statistics of their place of residence or of the place of marriage.

The omission of such report does not affect the legitimacy of the children.

SEC. 260. If the parents of the child have promised marriage to each other and marriage has become impossible by the death or the incapacity of one of the parties, the judge must, upon the demand of the other party or of the child, pronounce a declaration of legitimation.

If the child is of age the other party can make the request only with the consent of the child. After the death of the child his descendants may demand the declaration of legitimation.

SEC. 262. The next of kin of the parents who would be entitled to inherit from them and the competent authority of the canton where the father resides may, within three months from the time they learned of the legitimation, contest the declaration of legitimation by proving that the child is not the issue of the alleged parents.

SEC. 263. By the declaration of legitimation the illegitimate child and his legitimate descendants are made equal to legitimate relatives in their relation to the father and the mother and their relatives. The fact of legitimation is communicated to the registrar of vital statistics of the place of the child's birth and of the places of the father's and mother's birth.

THE STATUS OF AN ILLEGITIMATE CHILD.

SEC. 302. The relation of illegitimacy arises between the mother and the child at the birth of the child.

Between the child and the father it is established by recognition or by judicial decree.

SEC. 303. The recognition of an illegitimate child may be made by the father, or if he is dead or permanently incompetent, by the paternal grandfather.

It is made in the form of a public document or by testamentary disposition, and must be communicated to the registrar of vital statistics of the place of residence of the party making the recognition.

SEC. 304. The recognition of a child born in consequence of adulterous or incestuous intercourse is forbidden.

SEC. 305. The mother, the child, and after the death of the latter his descendants, may protest to the vital statistics registration office against the recognition, within three months after they had been notified of it, by contending that the recognizing party is not the father or the grandfather, or that the recognition will prejudice the interests of the child.

The registrar of vital statistics must notify of this protest the party who made the recognition or his heir, whereupon within three months action may be brought before the proper vital statistics registration office for the setting aside of the protest.

SEC. 306. The competent authority of the home canton of the father, or anyone who has an interest, may within three months after they have been notified, contest the recognition by proving that the party recognizing is not the father or the grandfather of the child or that recognition is prohibited.

SEC. 307. The mother of an illegitimate child is entitled to demand that the paternity be judicially established.

SEC. 308. The action may be brought before or after the birth of the child, but must be brought before the expiration of one year from the birth of the child.

SEC. 309. The action for paternity demands payments on the part of the father for the maintenance of the mother and the child, and also, when the conditions prescribed by law are satisfied, the declaration of the status of the child as that of a child of the father.

¹ As in force on Dec. 31, 1918.

² This and the other sections refer to the Civil Code unless otherwise stated. Edition used Schweizerisches Zivilgesetzbuch vom 10 Januar 1907, Verlag A. Francke, Bern, 1908.

The payments to the mother may also be demanded when the child has been recognized by the father, or when it is stillborn, or when it has died before the judgment.

When the child obtains the status of a child of the father, the performance of the parental duty takes the place of the payments for maintenance.

SEC. 310. The procedure in paternity actions is determined by the cantonal law of procedure subject to the provisions of this code.

However, the Cantons may not establish rules of evidence stricter than those of the ordinary process procedure.

SEC. 311. As soon as the guardianship authorities have received notice of the illegitimate birth, or the mother has made a declaration of her illegitimate pregnancy, a trustee is appointed for the child to take care of its interests. The trustee after termination of the action or after the expiration of the time to sue, is replaced by a guardian unless the guardianship authority deems it proper to place the child under the parental power of the father or the mother.

SEC. 312. The paternity action is brought before the judge of the Swiss residence of the complainant at the time of the birth or of the residence of the respondent at the time of action.

If the action demands declaration of paternity, notice thereof must be officially sent to the commune where the father resides in order that the commune may protect its interests.

SEC. 313. If the father is a Swiss citizen and lives abroad, and if mother and child likewise live abroad, the action may be brought in the place of the father's residence.

SEC. 314. If it can be proved that the defendant has cohabited with the mother in the time from the three hundredth to the one hundred and eightieth day prior to the birth of the child, the paternity is presumed.

The presumption does not take place if facts are proved which justify a material doubt regarding his paternity.

SEC. 315. If the mother at the time of the conception has lived an immoral life, the action must be dismissed.

SEC. 316. If the mother at the time of the conception is married, the paternity action can be brought only after the child has been judicially declared illegitimate.

In the latter case the time for bringing the action begins to run on the day when the child has been declared illegitimate.

SEC. 317. If the action is well founded the judge must award damages to the mother (1) for the cost of confinement; (2) for the support for at least four weeks before and four weeks after the birth; (3) for other expenses incurred in consequence of pregnancy and confinement.

SEC. 318. If the father has promised marriage to the mother before cohabiting, or has been guilty of a crime against her in cohabiting with her, or has abused an authority over her, or if she was under age at the time of cohabitation, the judge may award damages to her by way of satisfaction.

SEC. 319. If the action is well founded, the judge must award to the child support, the amount of which is determined in conformity to the position in life of the father and the mother, and which in any event must represent an adequate contribution to the cost of maintenance and education of the child.

The support must be paid to the completion of the eighteenth year of the child, payments to be made in advance for periods to be fixed by the judge.

The right of action of the child is not taken away by a compromise or renunciation on the part of the mother whereby the child is manifestly prejudiced in its claims.

SEC. 320. Upon petition of the plaintiff or defendant the court may alter the amount of the support if conditions have changed materially and may decree that the payment of support shall terminate at a time at which the child obtains an income adequate to his station in life.

SEC. 321. If the paternity is made probable and the mother is in need, the court may require the father before the judgment and without proof that the claim is imperiled, to give security for the probable cost of confinement and of the support of the child for the first three months.

SEC. 322. The claims survive against the heirs of the father.

The heirs need not pay the child any more than the child could have claimed as heir in case of recognition.

SEC. 323. The judge, on the petition of the plaintiff, may declare the status of the child to be that of a child of the father if the defendant has promised marriage to the mother or has been guilty of a crime against her by cohabiting with her or has abused his authority over her.

The child may not be given the status of a child of the father if the father is married and was married at the time of the cohabitation.

SEC. 324. If the child remains with the mother, it receives her family name and her residence, and obtains with regard to the mother and the maternal kin the rights and duties of illegitimate relationship. The obligations of the mother are the same as though the child were legitimate.

The guardianship authority may confer parental power on the mother.

SEC. 325. If the child has been voluntarily recognized, or if its paternity has been declared judicially, it receives the family name and the residence of the father, and obtains with regard to the paternal, as well as the maternal, kin the rights and duties of illegitimate relationship.

The father has to care for the child as though it were legitimate.

The guardianship authority may confer parental power either on the father or the mother.

SEC. 326. If an illegitimate child is placed under the power of the father, the mother has nevertheless the right of reasonable access to her child.

The guardianship authority upon the petition of the mother, or of its own motion, may award the parental power over the child up to a certain age to the mother and from then on to the father.

SEC. 327. If the guardianship authority places the child under the parental power of the father, or of the mother, it determines at the same time what rights the parent shall have over the property of the child.

APPENDIX

APPENDIX.

ILLEGITIMACY LAWS ENACTED IN THE UNITED STATES DURING 1918.

LOUISIANA.

NOTE ON BIRTH REGISTRATION.—Certificate states whether legitimate or illegitimate. (Laws 1918, No. 257, sec. 14.)

NOTE ON WORKMEN'S COMPENSATION LAW.—The law applies to acknowledged illegitimate children. (Laws 1914, No. 20, sec. 8, as amended by Laws 1918, No. 38.)

MASSACHUSETTS.

Revised Laws 1902, ch. 155. Apprenticeship.

NOTE.—This chapter, constituting the apprenticeship law, is repealed by Laws 1918, ch. 257, sec. 402.

Laws 1913, ch. 563.

SEC. 8. If money is forfeited or recovered upon a recognizance or deposit in lieu thereof in proceedings under this act, the court in which such proceedings are pending may order such money paid to the probation officer and expended by him, under the direction of the court, for the support of the child. (As added by Laws 1918, ch. 199.)

Laws 1911, ch. 456.

SEC. 5. Before the trial, with the consent of the defendant, or at the trial, on entry of a plea of guilty, or after conviction, if the defendant is placed on probation or if his sentence is suspended and he is placed on probation under the provisions of section 1 of chapter 220 of the Revised Laws, and acts in amendment thereof, the court in its discretion, having regard to the circumstances and to the financial ability or earning capacity of the defendant, shall have power to make an order, which shall be subject to change by the court from time to time as circumstances may require, directing the defendant to pay a certain sum periodically, for a term not exceeding two years, to the probation officer, who shall pay over the same to the wife or to the guardian or custodian of the said minor child or children, or to the city, town, corporation or society supporting the wife or minor child or children, or to the treasurer of the commonwealth for the use of the State board of charity when the complaint is for neglect to provide for the support of the minor child or minor children who have been committed to the custody of said board; and the court shall also have power to release the defendant from custody on probation for the period so fixed, requiring in its discretion the defendant to enter into a recognizance, with or without surety, in such sum as the court or a judge thereof in vacation may order and approve. The condition of the recognizance shall be that if the defendant shall make his or her personal appearance in court, whenever ordered to do so, and shall comply with the terms of the order of support, or of any subsequent modification thereof, then the recognizance shall be void, but otherwise it shall be of full force and effect. Suit may be brought upon said recognizance by any person authorized by the court, and the proceeds of the suit shall be applied to the support of the wife or of the minor child or children as the court shall direct. (As amended by Laws 1918, ch. 257, sec. 453.)

SEC. 6. If the court be satisfied by information and due proof under oath that at any time during said period of probation the defendant has violated the terms of the order, it may forthwith proceed with the trial of the defendant under the original charge, or sentence him or her under the original conviction, or enforce the suspended sentence, as the case may be. In case the defendant is admitted to bail pending the trial of the cause and the bail shall be forfeited, the money or sum recovered, and in case of the forfeiture of the recognizance and enforcement thereof by execution the sum

recovered may, in the discretion of the court, be paid in whole or in part to the probation officer, who shall pay over the same to the wife, or to the guardian or custodian of said minor child or children, or to the city, town, corporation, or society supporting the wife or minor child, or to the treasurer of the Commonwealth for the use of the State board of charity when the complaint is for neglect to provide for the support of a minor child or of minor children who have been committed to the custody of said board. (As amended by Laws 1918, ch. 257, sec. 454.)

NEW JERSEY.

Compiled Statutes 1911, p. 3874, sec. 169, as amended by Laws 1918, ch. 63.

NOTE.—Subdivisions V to VII of section 169, as amended in 1918, relating to the right of inheritance of illegitimate children, are identically as presented on page 180 under the amendment made by chapter 47 of the Laws of 1914.

PORTO RICO.

NOTE ON WORKMEN'S COMPENSATION LAW.—The law applies to illegitimate children. (Laws 1918, No. 10, sec. 3.)

VIRGINIA.

NOTE ON BIRTH REGISTRATION.—The State registrar may decline to issue a certified copy of the certificate of the birth or the death of an illegitimate child or to give any information concerning the same, except by order of court or upon the written request of the mother of the child, or other person responsible for it. (Laws 1912, ch. 181, sec. 20, as amended by Laws 1918, ch. 58.)

NOTE ON ABANDONMENT AND NONSUPPORT LAW.—The new law refers to a "male child under the age of sixteen years, female child under the age of seventeen years," but not to illegitimate children. (Laws 1918, ch. 416.)

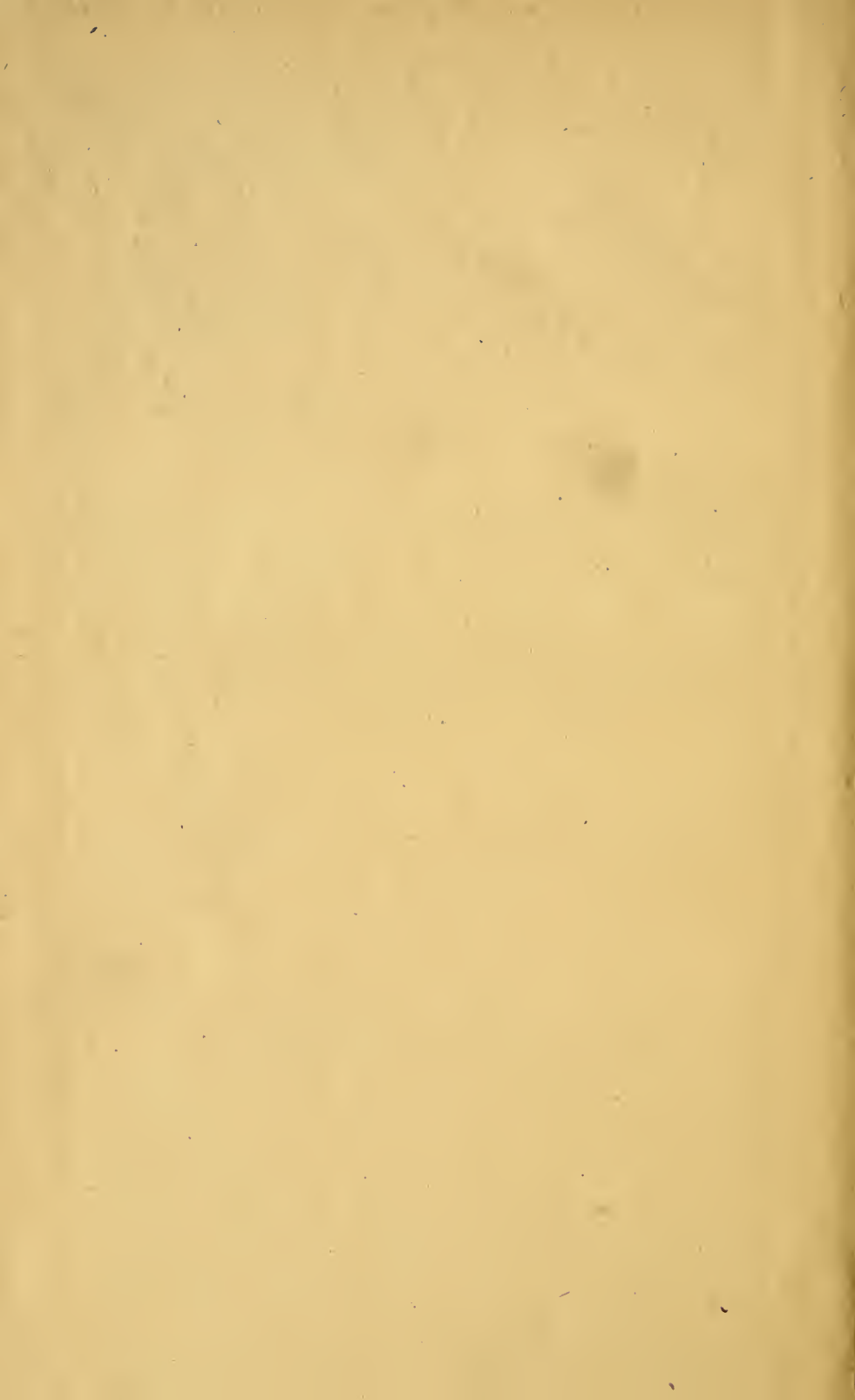
NOTE ON WORKMEN'S COMPENSATION LAW.—Terms "child," "boy," and "girl," shall include acknowledged illegitimate children. (Laws 1918, ch. 400, sec. 40.)



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